AN

ESSAY

ON THE CONSTITUTIONAL POWER OF

GREAT-BRITAIN

OVER THE COLONIES IN

AMERICA;

WITH THE

RESOLVES

OF THE

COMMITTEE

FOR THE PROVINCE OF

PENNSYLVANIA,

AND THEIR

INSTRUCTIONS

To their REPRESENTATIVES

IN ASSEMBLY.

by John Dickenson Author of Farmers Letters

vid Lond Mag. 1774. 6th

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M.DCC.LXXIV.

EXTRACT from the MINUTES of the COMMITTEE.

SATURDAY, JULY 16, [1774.]

THE committee for the [province of *Pennſylvania*] met according to adjournment.

JOHN DICKINSON, Doctor WILLIAM SMITH, JOSEPH READ, JOHN KIDD, ELISHA PRICE, WILLIAM ATLEE, JAMES SMITH, JAMES WILSON, DANIEL BROADHEAD, JOHN OKELY, and WILLIAM SCULL, are appointed to prepare and bring in a draught of inſtructions.

Monday, July 18. * The committee appointed to bring in inſtructions, reported, that they had made a draught, which they laid upon the table.

Moved, That they be read,—which was done.

Tueſday, July 19. Upon a motion made and ſeconded, agreed that the draught of inſtructions brought in by the committee, and which were read, be re-committed to the ſame committee.

Wedneſday, July 20. The committee having brought in a draught of inſtructions, the ſame were debated, amended and agreed to.

* THE committees of the counties having been invited, by the committee for the city and county of *Philadelphia*, to meet them at *Philadelphia* on the 15th of *July*; this committee thought it their duty, to make ſome preparation in the buſineſs, that was to be laid before the provincial committee by them. On the 4th of *July* they appointed a committee for this purpoſe; and this meaſure enabled thoſe appointed by the provincial committee to bring in a draught ſo ſoon.

Thurſday, July 21. The inſtructions were ſigned by the chairman.—The committee in a body, waited on the Aſſembly then ſitting, and preſented the ſame.

IT having been moved, that the eſſay of the inſtructions firſt propoſed to be given to the honourable Aſſembly of *Pennſylvania*, by the provincial committee aſſembled at *Philadelphia* the 18th inſtant might be abridged, leaving out the argumentative part, ſo as to be more proper for inſtructions, the ſame was agreed to; but reſolved at the ſame time, that the whole work ought to be publiſhed, as highly deſerving the peruſal and ſerious conſideration of every friend of liberty within theſe colonies.

Agreed unanimouſly, That the thanks § of this committee be given from the chair to JOHN DICKINSON, Eſq; for the great aſſiſtance they have derived from the laudable application of his eminent abilities to the ſervice of his country in the above performance.

Extract from the Minutes,
CHARLES THOMSON, *Clerk of the Committee.*

PRE-

§ MR. DICKINSON being abſent this day, on account of the funeral of a relation, the next day the chairman, in a very obliging manner, delivered to him from the chair the thanks of the committee; to which he replied:

"MR. CHAIRMAN,

"I heartily thank this reſpectable Aſſembly for the honour they have conferred upon me, but want words to expreſs the ſenſe I feel of their kindneſs. The mere accidents of meeting with particular books, and converſing with particular men, led me into the train of ſentiments, which the committee are pleaſed to think juſt; and others, with the like opportunities of information would much better have deſerved to receive the thanks, they now generouſly give. I conſider the approbation of this company as an evidence, that they entertain a favourable opinion of my good intentions, and as an encouragement for all to apply themſelves, in theſe unhappy times, to the ſervice of the public, ſince even ſmall endeavours to promote that ſervice, can find a very valuable reward. I will try, during the remainder of my life, to remember my duty to our common country, and, if it be poſſible, to render myſelf worthy of the honour for which I now ſtand ſo deeply indebted.

"I thank you, Sir, for the polite and affectionate manner, in which you have communicated the ſenſe of the committee to me."

PREFACE.

WHEN the committee for preparing a draught of inſtructions was appointed, it was conſidered, whether it would not be proper, to form ſome kind of a ſketch, however imperfect it might be, of all the grievances of the colonies, and of courſe of their conſtitutional rights.

SUCH an attempt, tho' very rude, might be improved by better hands; and it ſeemed abſolutely neceſſary, no longer to confine ourſelves to occaſional complaints and partial remedies, but, if poſſible, to attain ſome degree of certainty concerning our lives, liberties and properties.

IT was perceived, that if the inſtructions ſhould be formed on this plan, they would comprehend many and very

ry important poſitions, which it would be proper to introduce, by previouſly aſſigning the reaſons, on which they were founded. Otherwiſe, the poſitions might not appear to the committee to be juſt. From this conſideration it became neceſſary, to render the inſtructions long and argumentative; and whoever candidly reflects on the importance of the occaſion, will think ſuch a method very juſtifiable.

The draught of inſtructions being brought into the provincial committee and read, and no objection being made to any of the principles aſſerted in them, it was not thought neceſſary, that the argumentative part ſhould continue any longer in them. The committee, that brought in the draught, therefore moved, that this part of the inſtructions might be ſeparated from the reſt. Whereupon the draught was re-committed, for this purpoſe, to the committee, that brought it in. This was done.

Several

SEVERAL additions have been made to the other part, now called "An Eſſay," &c. ſince the vote for publiſhing. The additions are diſtinguiſhed by crotchets, thus [ ] and in theſe it was not thought neceſſary to obſerve the ſtile of inſtructions. The notes have been almoſt entirely added ſince the vote.

AUGUST 1, 1774.

RESO-

RESOLUTIONS, &c.

At a provincial meeting *of* deputies *choſen by the ſeveral counties, in* Pennſylvania, *held at* Philadelphia, *July* 15, 17 4, *and continued by adjournments from day to day.*

PRESENT.

For the city and county of Philadelphia.

THOMAS WILLING,
JOHN DICKINSON,
PETER CHEVALIER,
EDW. PENNINGTON,
THOMAS WHARTON,
JOHN COX,
JOSEPH REED,
THO. WHARTON, jun.
SAMUEL ERWIN,
THOMAS FITZSIMONS,
Dr. WILLIAM SMITH,
ISAAC HOWELL,
ADAM HUBLEY,
GEORGE SCHLOSSER,
SAMUEL MILES,
THOMAS MIFFLIN,
CHRISTOPH. LUDWIC,
JOSEPH MOULDER,
ANTH. MORRIS, jun.
GEORGE GRAY,
JOHN NIXON,
JACOB BARGE,
THOMAS PENROSE,
JOHN M. NESBIT,
JONATHAN B. SMITH,
JAMES MEASE,
THOMAS BARCLAY,
BENJAMIN MARSHALL,
SAMUEL HOWELL,
WILLIAM MOULDER,
JOHN ROBERTS,
JOHN BAYARD,
WILLIAM RUSH,
CHARLES THOMSON.

Bucks.

JOHN KIDD, JOHN WILKINSON,
HENRY WYNKOOP, JAMES WALLACE.
JOSEPH KIRKBRIDE,

Cheſter.

FRAN. RICHARDSON, HUGH LLOYD,
ELISHA PRICE, JOHN SELLERS,
JOHN HART, FRANCIS JOHNSON,
ANTHONY WAINE, RICHARD REILEY.

Lancaſter.

GEORGE ROSS, EMANUEL CARPENTER,
JAMES WEBB, WILLIAM ATLEE,
JOSEPH FERREE, ALEXANDER LOWRY,
MATTHIAS SLOUGH, MOSES ERWIN.

York.

JAMES SMITH, THOMAS HARTLEY.
JOSEPH DONALDSON,

Cumberland.

JAMES WILSON, WILLIAM IRVINE.
ROBERT MAGAW,

Berks.

EDWARD BIDDLE, THOMAS DUNDAS,
DANIEL BROADHEAD, CHRISTOPH. SCHULTZ.
JONATHAN POTTS,

Northampton.

WILLIAM EDMUNDS, JOHN OKELEY,
PETER KECHLEIN, JACOB ARNDT.

Northumberland.

WILLIAM SCULL, SAMUEL HUNTER.

Bedford.

GEORGE WOODS.

Weſtmoreland.

ROBERT HANNAH, JAMES CAVETT.

THOMAS

THOMAS WILLING, Chairman.

CHARLES THOMSON, Clerk.

AGREED that, in caſe of any difference in ſentiment, the queſtion be determined by the deputies voting by counties.

THE letters from *Boſton* of the 13th of *May* were then read, and a ſhort account given of the ſteps taken in conſequence thereof, and the meaſures now purſuing in this and the neighbouring provinces; after which the following RESOLVES were paſſed.

UNAN. I. THAT we acknowledge ourſelves, and the inhabitants of this province, liege ſubjects of his majeſty king *George* the third, to whom they and we owe and will bear true and faithful allegiance

UNAN. II. That as the idea of an unconſtitutional independence on the parent ſtate is utterly abhorrent to our principles, we view the unhappy differences between *Great-Britain* and the Colonies with the deepeſt diſtreſs and anxiety of mind, as fruitleſs to her, grievous to us, and deſtructive of the beſt intereſts of both.

UNAN. III. That it is therefore our ardent deſire, that our ancient harmony with the mo-

ther country ſhould be reſtored, and a perpetual love and union ſubſiſt between us, on the principles of the conſtitution, and an interchange of good offices, without the leaſt infraction of our mutual rights.

UNAN. IV. That the inhabitants of theſe colonies are entitled to the ſame rights and liberties WITHIN theſe colonies, that the ſubjects born in *England* are entitled to WITHIN that realm,

UNAN. V. That the power aſſumed by the parliament of *Great-Britain* to bind the people of theſe colonies, "by ſtatutes IN ALL CASES WHATSOEVER," is unconſtitutional; and therefore the ſource of theſe unhappy differences.

UNAN. VI. That the act of parliament, for ſhutting up the port of *Boſton*, is unconſtitutional; oppreſſive to the inhabitants of that town; dangerous to the liberties of the *Britiſh* colonies; and therefore, that we conſider our brethren at *Boſton* as ſuffering in the common cauſe of theſe colonies.

UNAN. VII. That the bill for altering the adminiſtration of juſtice in certain criminal caſes within the province of *Maſſachuſetts-Bay*, if paſſed into an act of parliament, will be as unconſtitutional, oppreſſive and dangerous, as the act above-mentioned.

UNAN.

UNAN. VIII. That the bill for changing the conſtitution of the province of *Maſſachuſetts Bay*, eſtabliſhed by charter, and enjoyed ſince the grant of that charter, if paſſed into an act of parliament, will be unconſtitutional and dangerous in its conſequences to the *American* colonies.

UNAN. IX. That there is an abſolute neceſſity, that a congreſs of deputies from the ſeveral colonies be immediately aſſembled, to conſult together, and form a general plan of conduct to be obſerved by all the colonies, for the purpoſes of procuring relief for our ſuffering brethren, obtaining redreſs of our grievances, preventing future diſſenſions, firmly eſtabliſhing our rights, and reſtoring harmony between *Great-Britain* and her colonies on a conſtitutional foundation.

UNAN. X. That, although a ſuſpenſion of the commerce of this large trading province, with *Great-Britain*, would greatly diſtreſs multitudes of our induſtrious inhabitants, yet that ſacrifice and a much greater we are ready to offer for the preſervation of our liberties; but, in tenderneſs to the people of *Great-Britain*, as well as of this country, and in hopes that our juſt remonſtrances will, at length, reach the

ears

ears of our gracious ſovereign and be no longer treated with contempt by any of our fellow ſubjects in *England*, it is our earneſt deſire, that the congreſs ſhould firſt try the gentler mode of ſtating our grievances, and making a firm and decent claim of redreſs.

XI. Resolved, by a great majority, That yet notwithſtanding, as an unanimity of counſels and meaſures is indiſpenſably neceſſary for the common welfare, if the congreſs ſhall judge agreements of non-importation and non-exportation expedient, the people of this province will join with the other principal and neighbouring colonies, in ſuch an aſſociation of non-importation from and non-exportation to *Great-Britain* as ſhall be agreed on, at the congreſs.

XII. Resolved, by a majority, That if any proceedings of the parliament, of which notice ſhall be received, on this continent, before or at the general congreſs, ſhall render it neceſſary in the opinion of that congreſs, for the colonies to take farther ſteps than are mentioned in the *eleventh* reſolve; in ſuch caſe, the inhabitants of this province ſhall adopt ſuch farther ſteps, and do all in their power to carry them into execution.

Unan. XIII. That the venders of merchandize of every kind; within this province, ought

ought not to take advantage of the reſolves relating to non-importation in this province or elſe where; but that they ought to ſell their merchandize, which they now have, or may hereafter import, at the ſame rates they have been accuſtomed to do within three months laſt paſt.

UNAN. XIV. That the people of this province will break off all trade, commerce, and dealing, and will have no trade, commerce, or dealing of any kind with any colony on this continent, or with any city or town in ſuch colony, or with any individual in any ſuch colony, city, or town, which ſhall refuſe, decline, or neglect to adopt, and carry into execution ſuch general plan as ſhall be agreed to in congreſs.

UNAN. XV. That it is the duty of every member of this committee to promote, as much as he can, the ſubſcription ſet on foot, in the ſeveral counties of this province, for the relief of the diſtreſſed inhabitants of *Boſton*.

UNAN. XVI. That this committee give inſtructions on the preſent ſituation of public affairs to their repreſentatives, who are to meet next week in Aſſembly, and requeſt them to appoint a proper number of perſons to attend a congreſs of deputies from the ſeveral colonies,

nies, at ſuch time and place as may be agreed on, to effect one general plan of conduct, for attaining the great and important ends mentioned in the *ninth* reſolve.

INSTRUCTIONS

INSTRUCTIONS

From the COMMITTEE to the REPRESENTATIVES in ASSEMBLY met.

GENTLEMEN,

THE diſſenſions between *Great-Britain* and her colonies on this continent, commencing about ten years ago, ſince continually encreaſing, and at length grown to ſuch an exceſs as to involve the latter in deep diſtreſs and danger, have excited the good people of this province to take into their ſerious conſideration the preſent ſituation of public affairs.

THE inhabitants of the ſeveral counties qualified to vote at elections, being aſſembled on due notice, have appointed us their deputies; and in conſequence thereof, we being in provincial committee met, eſteem it our indiſpenſible duty, in purſuance of the truſt repoſed in us, to give you ſuch inſtructions, as, at this important period, appear to us to be proper.

WE, ſpeaking in their names and our own, acknowledge ourſelves liege ſubjects of his majeſty king *George* the *third*, to whom "we will be faithful and bear true allegiance."

Our judgments and affections attach us, with inviolable loyalty, to his majesty's person, family and government.

We acknowledge the prerogatives of the sovereign, among which are included the great powers of making peace and war, treaties, leagues and alliances *bindi[illegible]us*—of appointing all officers, except in cases where other provision is made, by grants from the crown, or laws approved by the crown—of confirming or annulling every act of our assembly within the allowed time—and of hearing and determining finally, in council, appeals from our courts of justice. "The prerogatives are limited," *as a learned judge observes, "by bounds so certain and notorious, that it is impossible to exceed them, without the consent of the people on the one hand, or without, on the other, a violation of that *original contract*,§ which

* 1 *Blackstone* 237.

§ And though we are strangers to the original of most states, yet we must not imagine that what has been here said, concerning the manner in which civil societies are formed, is an arbitrary fiction. For since it is certain, that all civil societies had a beginning, it is impossible to conceive, how the members, of which they are composed, could unite to live together dependent on a supreme authority, without supposing the covenants abovementioned.

Burlemaqui's *Princ. of pol. law, vol. 2. p. 29.*

And in fact, upon considering the primitive state of man, it appears most certain, that the appellations of sovereigns and subjects, masters and slaves, are unknown to nature.

Nature

which, in all ſtates impliedly, and in ours moſt expreſsly, ſubſiſts between the prince and ſubject.—For theſe prerogatives are veſted in the crown *for the ſupport of ſociety*, and do not in-

 trench

Nature has made us all of the ſame ſpecies, all equal, all free and independent of each other; and was willing that thoſe, on whom ſhe has beſtowed the ſame faculties, ſhould have all the ſame rights. It is therefore beyond all doubt that in this primitive ſtate of nature, no man has of himſelf an original right of commanding others, or any title to ſovereignty.

There is none but God alone that has of himſelf, and in conſequence of his nature and perfections, a natural, eſſential, and inherent right of giving laws to mankind, and of exerciſing an abſolute ſovereignty over them. The caſe is otherwiſe between man and man, they are of their own nature as independent of one another, as they are dependent on God. This liberty and independence is therefore a right naturally belonging to man, of which it would be unjuſt to deprive him againſt his will. *Id. p.* 38.

There is a beautiful paſſage of *Cicero*'s to this purpoſe *. *Nothing is more agreeable to the ſupreme Deity, that governs this univerſe, than civil ſocieties lawfuly eſtabliſhed.*

When therefore we give to ſovereigns the title of God's vicegerents upon earth, this does not imply that they derive their authority immediately from God, but it ſignifies only, that by means of the power lodged in their hands, and with which the people have inveſted them, they maintain, agreeable to the views of the Deity, both order and peace, and thus procure the happineſs of mankind.

Id. p. 40.

But

* Nihil eſt illi principi Deo, qui omnem hunc mundum regit, quod quidem in terris fiat acceptius, quam conſilia cœtuſque hominum jure ſociati, quæ civitates appellantur. *Somn. Scip. c.* 3.

trench any farther on our *natural* liberties, than is expedient for the maintenance of our *civil*."

But it is our misfortune, that we are compelled loudly to call your attention to the conſideration of another power, totally different in kind-----limited, as it is alledged, by no "bounds," and § "wearing a moſt dreadful aſpect," with regard to *America*. We mean the

But it will be here objected, that the ſcripture itſelf ſays, that every man ought to be ſubject to the ſupreme powers, becauſe they are eſtabliſhed by God *. I anſwer, with *Grotius*, that men have eſtabliſhed civil ſocieties, not in conſequence of a divine ordinance, but of their voluntary motion, induced to it by the experience they had had of the incapacity which ſeparate families were under, of defending themſelves againſt the inſults and attacks of human violence. From thence (he adds) ariſes the civil power, which *St. Peter*, for this reaſon, calls *a human* power,‖ though in other parts of ſcripture it bears the name of a divine inſtitution †, becauſe God has approved of it as an eſtabliſhment uſeful to mankind ‡.

All the other arguments, in favour of the opinion we have been here refuting, do not even deſerve our notice. In general, it may be obſerved, that never were more wretched reaſons produced than upon this ſubject, as the reader may be eaſily convinced by reading *Puffendorf* on the law of nature and nations, who, in the chapter correſponding to this, gives theſe arguments at length, and compleatly refutes them ¶. *Id. p.* 42, 43.

* Rom. xiii. ‖ i. Ep. c. 2. v. 13. † Rom. xiii. 1.
‡ Grotius of the right of war & peace, b. I. c. 4 § 7, 12. No. 3.
¶ See the law of nature and nations, book VII. c. 3.

§ 1 *Blackſtone* 270.

the power claimed by parliament, of right, to bind the people of theſe colonies by ſtatutes, "IN ALL CASES WHATSOEVER"—a power, as we *are not*, and, from local circumſtances, *cannot* be repreſented there, utterly ſubverſive of our natural and civil liberties------paſt events and reaſon convincing us, that there never exiſted, and never can exiſt, a ſtate *thus* ſubordinate to another, and yet retaining the ſlighteſt portion of freedom or happineſs.

THE import of the words above quoted needs no deſcant; for the wit of man, as we apprehend, cannot poſſibly form a more clear, conciſe, and comprehenſive *definition* and *ſentence* of ſlavery, than theſe expreſſions contain.

THIS power claimed by *Great-Britain*, and the late attempts to exerciſe it over theſe colonies, preſent to our view two events, one of which muſt *inevitably* take place, if ſhe ſhall continue to inſiſt on her pretenſions. Either, the coloniſts will ſink from the rank of freemen into the claſs of ſlaves, overwhelmed with all the miſeries and vices, prov'd by the hiſtory of mankind to be inſeparably annexed to that deplorable condition: Or, if they have ſenſe and virtue enough to exert themſelves in ſtriving to avoid this perdition, they muſt be involved in an oppoſition dreadful even in contemplation.

Honour,

Honour, *juſtice*, and *humanity* call upon us to hold, and to tranſmit to our poſterity, that liberty, which we received from our anceſtors. It is not our duty to leave wealth to our children: But it is our duty, to leave liberty to them. No infamy, iniquity, or cruelty, can exceed our own, if we, born and educated in a country of freedom, entitled to its bleſſings, and knowing their value, puſillanimouſly deſerting the poſt aſſigned us by divine Providence, ſurrender ſucceeding generations to a condition of wretchedneſs, from which no human efforts, in all probability, will be ſufficient to extricate them; the experience of all ſtates mournfully demonſtrating to us, that when arbitrary power has been eſtabliſhed over them, even the wiſeſt and braveſt nations, that ever flouriſhed, have, in a few years, degenerated into abject and wretched vaſſals.

So alarming are the meaſures already taken for laying the foundations of a deſpotic authority of *Great-Britain* over us, and with ſuch artful and inceſſant vigilence is the plan proſecuted, that unleſs the preſent generation can interrupt the work, *while it is going forward*, can it be imagined, that our children, debilitated by our imprudence and ſupineneſs, will be able to overthrow it, *when compleated?* Populous and powerful as theſe Colonies may grow, they will ſtill find arbitrary domination not only ſtrengthening

with

with their ſtrength, but exceeding, in the ſwiftneſs of its progreſſion, as it ever has done, all the artleſs advantages, that can acrue to the governed. *Theſe* advance with a regularity, which the divine author of our exiſtence has impreſſed on the laudable purſuits of his creatures: But deſpotiſm,* unchecked and unbounded by *any laws*—never ſatisfied with what has been done, while any thing remains to be done, for the accompliſhment of its purpoſes—confiding, and capable

* As virtue is neceſſary in a republic, and in a monarchy honor, ſo fear is neceſſary in a deſpotic government: with regard to virtue, there is no occaſion for it, and honor would be extremely dangerous.

Here the immenſe power of the prince is devolved intirely upon thoſe to whom he is pleaſed to entruſt it. Perſons capable of ſetting a value upon themſelves would be likely to create revolutions. Fear muſt therefore depreſs their ſpirits, and extinguiſh even the leaſt ſenſe of ambition.

MONT. *Spir. of Laws, vol.* 1. *b.* III. *ch.* 9.

An idea of deſpotic power.

When the ſavages of Louiſiana are deſirous of fruit, they cut the tree to the root, and gather the fruit †. This is an *emblem* of deſpotic government. *Id. book* V. *c.* 13.

The principle of deſpotic government is fear; but a timid, ignorant, and faint ſpirited people have no occaſion for a great number of laws.

Every thing ought to depend here on TWO OR THREE ideas; therefore there is no neceſſity that any new notions ſhould be added. When we want to break a horſe, we take care not to let him change his maſter, his leſſon, or his pace. Thus an impreſſion is made on his brain by two or three motions and no more. *Id. book* V. *ch.* 14.

† Edifying letters, 11 coll. p. 315.

capable of confiding, only *in the annihilation of all oppoſition*, -- holds its courſe with ſuch unabating and deſtructive rapidity, that the world has become its prey, and at this day, *Great-Britain* and her dominions excepted, there is ſcarce a ſpot on the globe inhabited by civilized nations, where the veſtiges of freedom are to be obſerved.

To us therefore it appears, at this alarming period, our duty to God, to our country, to ourſelves, and to our poſterity, to exert our utmoſt ability, in promoting and eſtabliſhing harmony between *Great-Britain* and theſe colonies, ON A CONSTITUTIONAL FOUNDATION.

For attaining this great and deſirable end, we requeſt you to appoint a proper number of perſons to attend a congreſs of deputies from the ſeveral colonies, appointed, or to be appointed, by the repreſentatives of the people of the colonies reſpectively in aſſembly, or convention, or by delegates choſen by the counties generally in the reſpective colonies, and met in provincial committee, at ſuch time and place as ſhall be generally agreed on: And that the deputies from this province may be induced and encouraged to concur in ſuch meaſures, as may be deviſed for the common welfare, we think it proper, particularly to inform you, how far, we apprehend, they will be ſupported in their conduct by their conſtituents.

[*In*

[*In this place was inſerted the argumentative part, which in this publication is called "An Eſſay."*]

THE aſſumed parliamentary power of internal legiſlation, and the power of regulating trade, as of late exerciſed, and deſigned to be exerciſed, we are thoroughly convinced, will prove unfailing and plentiful ſources of diſſentions to our mother country and theſe colonies, unleſs ſome expedients can be adopted to render her ſecure of receiving from us every emolument, that can in juſtice and reaſon be expected, and us ſecure in our lives, properties, and an equitable ſhare of commerce.

MOURNFULLY revolving in our minds the calamities, that, ariſing from theſe diſſentions, will moſt probably fall on us and our children, we will now lay before you the particular points we requeſt of you to procure, if poſſible, to be finally decided; and the meaſures that appear to us moſt likely to produce ſuch a deſirable period of our diſtreſſes and dangers. We therefore deſire of you---

FIRST. That the Deputies you appoint, may be inſtructed by you ſtrenuouſly to exert themſelves, at the enſuing Congreſs, to obtain a renunciation, on the part of *Great-Britain*, of

all powers under the ſtatute of the 35 of *Henry* the eighth, chapter the 2d.---of all powers of internal legiſlation- -of impoſing taxes or duties internal or external---and of regulating trade, except with reſpect to any new articles of commerce, which the Colonies may hereafter raiſe, as ſilk, wine, &c. reſerving a right to carry theſe from one colony to another---a repeal of all ſtatutes for quartering troops in the Colonies, or ſubjecting them to any expence on account of ſuch troops---of all ſtatutes impoſing duties to be paid in the Colonies, that were paſſed at the acceſſion of his preſent Majeſty, or before this time; which ever period ſhall be judged moſt adviſeable---of the ſtatutes giving the courts of admiralty in the colonies greater power than courts of admiralty have in *England* ---of the ſtatutes of the 5th of *George* the ſecond, chapter the 22d, and of the 23d of *George* the ſecond, chapter the 29th---of the ſtatute for ſhutting up the port of Boſton---and of every other ſtatute particularly affecting the province of *Maſſachuſetts Bay*, paſſed in the laſt ſeſſion of Parliament.

In caſe of obtaining theſe terms, it is our opinion, that it will be reaſonable for the colonies to engage their obedience to the acts of parliament, commonly called the acts of navigation,

and

and to every other act of parliament declared to have force, at this time, in theſe colonies, other than thoſe above-mentioned, and to confirm ſuch ſtatutes by acts of the ſeveral aſſemblies. It is alſo our opinion, that taking example from our mother country, in aboliſhing the " courts of wards and liveries, tenures in capite, and by knight's ſervice, and purveyance," it will be reaſonable for the colonies, in caſe of obtaining the terms before mentioned, to ſettle a certain annual revenue on his majeſty, his heirs and ſucceſſors, ſubject to the controul of parliament, and to ſatisfy all damages done to the *Eaſt-India* company.

This our idea of ſettling a revenue, ariſes from a ſenſe of duty to our ſovereign, and of eſteem for our mother country. We know and have felt the benefits of a ſubordinate connexion with her. We neither are ſo ſtupid as to be ignorant of them; nor ſo unjuſt as to deny them. We have alſo experienced the pleaſures of gratitude and love, as well as advantages from that connexion. The impreſſions are not yet eraſed. We conſider her circumſtances with tender concern. We have not been wanting, when conſtitutionally called upon, to aſſiſt her to the utmoſt of our abilities; inſomuch that ſhe has judged it reaſonable to

make us recompences for our overſtrained exertions: And we now think we ought to contribute more than we do, to the alleviation of her burthens.

WHATEVER may be ſaid of theſe propoſals on either ſide of the *Atlantic*, this is not a time, either for timidity or raſhneſs. We perfectly know, that the great cauſe now agitated, is to be conducted to a happy concluſion, only by that well tempered compoſition of counſels, which firmneſs, prudence, loyalty to our Sovereign, reſpect to our parent State, and affection to our native country, united muſt form.

BY ſuch a compact, *Great-Britain* will ſecure every benefit, that the parliamentary wiſdom of ages has thought proper to attach to her. *From her alone* we ſhall continue to receive manufactures. *To her alone* we ſhall continue to carry the *vaſt multitude of enumerated articles* of commerce, the exportation of which her policy has thought fit to *confine to herſelf*. *With ſuch parts of the world only*, as ſhe has appointed us to deal, we ſhall continue to deal; and *ſuch commodities only*, as ſhe has permitted us to bring from them, we ſhall continue to bring. The *executive* and *controuling* powers of the crown will retain their preſent

preſent full force and operation. We ſhall contentedly labour for her as affectionate *friends*, in time of tranquility; and cheerfully ſpend for her, as dutiful *children*, our treaſure and our blood, in time of war. She will receive a *certain income* * from us, without the trouble or expence

* The train of Officers, employed by *Great-Britain*, conſume a very large part of what ſhe takes from us. She therefore increaſes our diſtreſſes to make up for that conſumption. They will hereafter grow more and more oppreſſive, we more and more uneaſy, ſhe more and more diſturbed. We could raiſe ~~an equal~~ the ſame ſum in a much more *eaſy*, *equal*, and *cheap* manner, than ſhe can do. The attention of ſmall ſtates extends much more efficaciouſly and beneficially to every part of the territories, than that of the adminiſtration of a vaſt empire. The repreſentatives in aſſembly, WHO ARE TAXED, WHEN THE PEOPLE ARE TAXED, AND ACCOUNTABLE TO THEM, will have double motives to take care, that the *raiſing* diſpending money is managed in the beſt way. The Houſe of Commons would not bear to examine *every particular* relating to the juſt taxation of *every county* on this continent, and to *ſettle all the accounts fairly*. If they could go through the immenſe labour, it would be impoſſible for them to do any other buſineſs In ſhort, by not doing it, they would be *unjuſt*; by doing it they would be *uſeleſs*. Equity and reaſon demonſtrate that ſuch a power belongs not to them. ~~The ſame reaſoning holds as to the application of money.~~ We have had ſome remarkable inſtances on this continent ſome few years ago, of the crown being *according to all the forms of buſineſs* charged with articles, that never went to the uſe of the crown. Theſe were *perquiſites*, and who could be ſo puritanical as to blame the civil word. It is ſaid, our barracks coſt about £. 8000 of this money—and that the barracks at *another place*, not deſerving a compariſon

expence of collecting it---without being conſtantly diſturbed by complaints of grievances, which ſhe cannot juſtify, and will not redreſs. In caſe of war, or in any emergency of diſtreſs

to

pariſon with ours, coſt £. 40,000 ſterling. We built our own, *ourſelves*, and were as ſaving and careful as we could be, it may be ſuppoſed. If money is raiſed upon us by parliament; of one thouſand pounds, taken out of our pockets, not one hundred, in all probability, will be uſefully applied to the ſervice of the crown. Deficiencies will enſue—they muſt be ſupplied—other acts are made—ſtill others—till our * "*unrepreſented blades of graſs*," too frequently and cloſely cut down and expoſed to the burning heat of an unſetting Sun, ever "*in its meridian*," periſh to their deepeſt roots.

"There is not upon earth (ſays the excellent *Gordon*) "a nation, which having had *unaccountable* magiſtrates, "has not felt them to be crying and conſuming miſchiefs. "In truth, where they are moſt limited, it has been often "as much as a whole people could do to reſtrain them to "their truſt, and to keep them from violence; and ſuch "frequently has been their propenſity to be lawleſs, that "nothing but a violent death could cure them of their vi"olence. This evil has its root in human nature; men "*will never think they have enough*, whilſt they can take "more; *nor be content with a part*, when they can ſeize "the whole."†

"That the buſineſs of moſt kingdoms has been ill man"aged, proceeds from this; it imports the *lower* rank of men only, and the *people* (whoſe cries ſeldom reach the prince, till it is too late, and till all is paſt remedy) that "matters ſhould be *frugally* ordered, becauſe taxes muſt

"ariſe

* Speech of Lord Camden. 1 Blackſtone 270.
† CATO's LETT. III. 78.

to her, we ſhall alſo be ready and willing to contribute all aids within our power: And we ſolemnly declare, that on ſuch occaſions, if we or our poſterity ſhall refuſe, neglect or decline thus to

" ariſe from *their* ſweat and labour. But the *great* ones, " who heretofore have had the prince's ear and favour, or " who hoped to have him in their poſſeſſion, were ſwayed " by another ſort of intereſt; they like profuſion, as having " had a proſpect to be gainers by it, they can eaſily ſet their " account even with the ſtate; a *ſmall charge* upon their land " is *more* than *balanced* by a *great place*, or a *large penſion*.†"

See the lord keeper *North*'s account of abuſes in the conduct and *diſpoſal* of the public money in the time of king *Ch.* II.§ Thoſe who, in our times, are the conductors of the ſame kind of dirty work, may compare the modern ingenious ways and means with thoſe of their worthy predeceſſors.

Among others, pretended want of money in the treaſury, in order to have a pretence for giving an exorbitant price for neceſſaries. Lending the crown at 8 *per cent.* money which was raiſed at 5 and 6. Paying with the public money, pretending it to be private, and taking intereſt. Depreciating the public debts and funds, buying them of the holders at half their worth, and afterwards by intereſt getting them paid in full. Pretending to give up all power in recommending to places for a conſideration, and then inſiſting on recommending ſtill, and ſo getting both ways. Rolling over loſſes upon the crown, or public, while the gain was to ſink into private pockets. A father ſtopping a large ſum in his own hand, which was to have been paid the public creditors. Before he can be brought to account, he dies. The money ſinks into the pocket of his heir. He obtains a pardon

† *Daven.* II. 262. § *Dalrymp*, MEM. II. 84.

to contribute, it will be a mean and manifeſt violation of a plain duty, and a weak and wicked deſertion of the true intereſts of this province, which ever have been and muſt be bound

up

pardon of all his father's debts. Groſs frauds in office found out. Then new officers and ſalaries ſet up as checks. The new prove as great knaves as the old, and form a ſcheme of colluſion and mutual underſtanding. But the public pays for all, and the power of the court is ſtrengthened. An old placeman begs leave to ſell. Pockets the money, and by and by, through intereſt, gets a new place *gratis*. Extravagant men ſquander their own money in their public employments of embaſſadors, governors, &c. and charge the public with more than they have really ſpent, while what they really ſpent was ten times more than neceſſary. The buſineſs of old offices transferred to new: but the profits of the old ſtill kept up, though become ſinecures. An old ſervant of the public retires upon a penſion. He who ſucceeds him, by intereſt, gets it continued to him. Another gets an addition to his ſalary, and then ſells his place for a great deal more than it coſt him, and ſo an additional load is laid on the public: for the addition muſt be continued, becauſe the place was bought. An annual ſum is granted by the public for a public uſe, as keeping up a harbour, or the like. A private man, by intereſt, gets a grant of the jobb; the public concern is neglected, and the public pocket picked. Crown lands perpetually begged and given away to ſtrengthen the court intereſt. The crown conſtantly kept in debt, and parliament ſolicited to pay thoſe debts occaſioned merely by the voracity of the court. Commanders of fleets order a ſuperfluous quantity of ſtores. By colluſion between them and the ſtore-maſters, this ſuperfluous quantity is ſold again to the king, and the money ſunk in their pockets. Sometimes the ſtore-maſters gave receipts for more than was received into the king's ſtores, and the

money

up in the proſperity of our mother country. Our union, founded on mutual compacts and mutual benefits, will be indiſſoluble, at leaſt more firm, than an union perpetually diſturbed by diſputed rights and retorted injuries.

D SECONDLY.

money was divided among the plunderers. The king's works done by the day, whereas it would have been cheaper by the great. Money pretended to be coined *gratis*. Liſts of large ſums newly coined produced. But the contrivance was to make the pieces unequal, and then the too heavy pieces were carried back to the mint, and the profit ſunk in private pockets, &c.

Secret ſervice is a huge cloke thrown over an immenſe ſcene of corruption; and under this cloke we muſt not peep. Our court-men tell us, there muſt be large ſums expended in this way, and thoſe ſums cannot be accounted for; becauſe the *ſervices* done for them muſt never be *known*. But we find, that the commons *A. D.* 1708 addreſſed queen *Anne* for accounts of penſions paid for *ſecret ſervice* to members of parliament, or to any perſons in truſt for them; and that 'the queen *ordered* ſaid account to be '*laid before the houſe*.'†

Contracts are a great fund of miniſterial influence. It is well known, that our miniſtry do not accept the moſt *reaſonable* offer; but the offer which is made by thoſe, who have the greateſt *parliamentary* intereſt; and that in war time, every man, who *furniſhes* for the *government*, is *enriched*; in *France* the *contrary*; which ſhews, that we manage our public money much *worſe* than the *French* miniſtry do theirs. In the late war it is notorious, that ſeveral of our *purveyors* and *commiſſaries* got eſtates ſufficient to ſet them up for earls and dukes. But as *Burnet* ‖ ſays, 'the re-'gard, that is ſhewn to members of *parliament* among us,

'cauſes

† DEB. COM. IV. 129. ‖ HIST. OWN TIMES, III. 279.

SECONDLY. If all the terms abovementioned cannot be obtained, it is our opinion, that the meaſures adopted by the congreſs for our relief ſhould *never* be *relinquiſhed* or *intermitted*, until *thoſe* relating to the troops,---internal legiſlation,---impoſition of taxes or duties hereafter,---the 35th of *Henry* the 8th, chapter the 2d,--

'cauſes that few *abuſes* can be *inquired* into, or *diſcovered*.'
POL. DISQU. b. v. p. 274—277.

What redreſs could a poor plundered, unrepreſented colony obtain againſt a *Verres*, ſupported by a ſtrong parliamentary influence. We know what ſeveral governors of *Minorca* have dared to do. A governor of *Gibraltar* has ventured to oppreſs even the garriſon of that important place. The very drudgery of examining accounts, would probably ſecure him. If caſt, the injuries could not be recompenſed. A ſucceſſor might prove as bad—"*Victrix provincia plorat*."

It has been ſaid in *Great Britain*, that Lord *Chatham*, Lord *Camden*, and ſome other great men, have taught the colonies to deſpiſe her authority. But it is as little true as the multitude of invectives vented againſt the colonies. The conſtant practice in theſe publications, is to confound facts and dates, and then to rail. It ſhould be remembered, that, the oppoſition in *America* to the ſtamp act was fully formed, and the congreſs held at *New-York*, before it was known on this continent, that our cauſe was eſpouſed by any man of note at home. We ſhould be glad to count ſuch venerable names in the liſt of our friends. They are the true friends of our mother country, as well as of this; and ages unborn will bleſs their memory. But if every man in *Great Britain*, is carried by the ſtream of prejudices into ſentiments, hoſtile to our freedom, that freedom will not be the leſs eſteemed, or the ſooner relinquiſhed by *Americans*.

2d,---the extenſion of admiralty courts,---the port of *Boſton* and the province of *Maſſachuſetts Bay* are obtained. Every modification or qualification of *theſe* points, in our judgment, ſhould be inadmiſſible. To obtain them, we think it may be prudent to ſettle ſome revenue as above-mentioned, and to ſatisfy the *Eaſt-India* company.

THIRDLY. If neither of theſe plans ſhould be agreed to, in congreſs, but ſome other of a ſimilar nature ſhall be framed, though on the terms of a revenue, and ſatisfaction to the *Eaſt-India* company, and though it ſhall be agreed by the congreſs to admit no modification or qualification in the terms they ſhall inſiſt on, we deſire your deputies may be inſtructed to concur with the other deputies in it; and we will accede to, and carry it into execution as far as we can.

FOURTHLY. As to the regulation of trade---we are of opinion, that by making ſome few amendments, the commerce of the colonies might be ſettled on a firm eſtabliſhment, advantageous to *Great-Britain* and them, requiring and ſubject to no future alterations, without mutual conſent. We deſire to have this point conſidered by the congreſs; and ſuch meaſures taken, as they may judge proper.

In order to obtain redreſs of our common grievances, we obſerve a general inclination among the colonies of entering into agreements of non-importation and non-exportation. We are fully convinced, that ſuch agreements would withhold very large ſupplies from *Great-Britain* and no words can deſcribe our contempt and abhorrence of thoſe coloniſts, if any ſuch there are, who, from a ſordid and ill-judged attachment to their own immediate profit, would purſue that, to the injury of their country, in this great ſtruggle for all the bleſſings of liberty. It would appear to us a moſt waſteful frugality, that would loſe every important poſſeſſion by too ſtrict an attention to ſmall things, and loſe alſo even theſe at the laſt. For our part, we will cheerfully make any ſacrifice, when neceſſary, to preſerve the freedom of our country. But other conſiderations have weight with us. We wiſh every mark of reſpect to be paid to his majeſty's adminiſtration. We have been taught from our youth to entertain tender and brotherly affections for our fellow ſubjects at home. The interruption of our commerce muſt diſtreſs great numbers of them. This we earneſtly deſire to avoid. We therefore requeſt, that the deputies you ſhall appoint may be inſtructed to exert themſelves, at the congreſs, to induce the members of it, to conſent to make a full and preciſe ſtate of grievances and a decent yet firm claim of redreſs, and to wait the event,

vent, before any other ſtep is taken. It is our opinion, that perſons ſhould be appointed and ſent home to preſent this ſtate and claim, at the court of *Great-Britain.*

If the congreſs ſhall chuſe to form agreements of non importation and non-exportation immediately, we deſire the deputies from this province will endeavour to have them ſo formed as to be binding upon all, and that they may be PERMANENT, ſhould the public intereſt require it. They cannot be *efficacious*, unleſs they can be *permanent*; and it appears to us that there will be a danger of their being infringed, if they are not formed with great caution and deliberation. We have determined in the preſent ſituation of public affairs to conſent to a ſtoppage of our commerce with *Great-Britain* only; but in caſe any proceedings of the parliament, of which notice ſhall be received on this continent, before or at the congreſs, ſhall render it neceſſary, in the opinion of the congreſs to take further ſteps, the inhabitants of this province will adopt ſuch ſteps, and do all in their power to carry them into execution.

This extenſive power we commit to the congreſs, for the ſake of preſerving that unanimity of counſel and conduct, that alone can work out the ſalvation of theſe colonies, with a ſtrong hope and truſt, that they will not draw this province into any meaſure judged by us, who muſt

be

be better acquainted with its ſtate than ſtrangers, highly inexpedient. Of this kind, we know any other ſtoppage of trade, but of that with *Great-Britain*, will be. Even this ſtep we ſhould be extremely afflicted to ſee taken by the congreſs, before the other mode above pointed out is tried. But ſhould it be taken, we apprehend, that a plan of reſtrictions may be ſo framed, agreeable to the reſpective circumſtances of the ſeveral colonies, as to render *Great-Britain* ſenſible of the imprudence of her counſels, and yet leave them a neceſſary commerce. And here it may not be improper to take notice, that if redreſs of our grievances can not be wholly obtained, the extent or continuance of our reſtrictions may, in ſome ſort, be proportioned to the rights we are contending for, and the degree of relief afforded us. This mode will render our *oppoſition* as *perpetual* as our *oppreſſion*, and will be A CONTINUAL CLAIM AND ASSERTION OF OUR RIGHTS. We cannot expreſs the anxiety, with which we wiſh the conſideration of theſe points to be recommended to you. We are perſuaded, that if theſe colonies fail of unanimity or prudence in forming their reſolutions, or of fidelity in obſerving them, the oppoſition by non-importation and non exportation agreements will be ineffectual; and then we ſhall have only the alternative of a more dangerous contention, or of a tame ſubmiſſion.

UPON

Upon the whole, we ſhall repoſe the higheſt confidence in the wiſdom and integrity of the enſuing congreſs: And though we have, for the ſatisfaction of the good people of this province, who have choſen us for this expreſs purpoſe, offered to you ſuch inſtructions, as have appeared expedient to us, yet it is not our meaning, that by theſe or by any you may think proper to give them, the deputies appointed by you ſhould be reſtrained from agreeing to any meaſures, that ſhall be approved by the congreſs. We ſhould be glad the deputies choſen by you could, by their influence, procure our opinions hereby communicated to you to be as nearly adhered to, as may be poſſible: But to avoid difficulties, we deſire that they may be inſtructed by you, to agree to any meaſures that ſhall be approved by the congreſs, the inhabitants of this province having reſolved to adopt and carry them into execution.---Laſtly---We deſire the deputies from this province, may endeavour to procure an adjournment of the congreſs, to ſuch a day as they ſhall judge proper, and the appointment of a ſtanding committee.

Agreed, that *John Dickinſon*, *Joſeph Read*, and *Charles Thomſon*, be a committee to write to the neighbouring colonies, and communicate to them the reſolves and inſtructions.

Agreed,

AGREED, that the committee for the city and county of *Philadelphia*, or any fifteen of them, be a committee of correſpondence for the general committee of this province.

Extract from the Minutes,

CHARLES THOMSON, *Cl. Com.*

AN

A N

E S S A Y,* &c.

THE authority of parliament has within theſe few years been a queſtion much agitated; and great difficulty, we underſtand, has occurred, in tracing the line between the rights of the mother country and thoſe of the colonies. The modern doctrine of the former is indeed truly remarkable; for though it points out, what *are not* our rights, yet we can never learn from it, what *are* our rights. As for example---*Great-Britain* claims a right to take away nine-tenths of our eſtates---have we a *right* to the remaining tenth? No.---To ſay we have,

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* This piece has been written in ſuch haſte, under ſo great indiſpoſition, and amidſt ſuch a confuſion of public affairs, that it is hoped, its inaccuracies will be looked upon with indulgence. If longer time could have been beſtowed upon its correction, it would have been at leaſt ſhorter, if not more exact. The firſt appointment of a committee to form a draught of inſtructions, was made on the fourth of laſt month. See note on the extract, dated the 18th of July.

is a " traiterous" poſition, denving her ſupreme legiſlature. So far from *having property*, according to theſe late found novels, *we are ourſelves a property.*

We pretend not to any conſiderable ſhare of learning; but, thanks be to divine Goodneſs, common ſenſe, experience, and ſome acquaintance with the conſtitution, teach us a few ſalutary truths on this important ſubject.

Whatever difficulty may occur in tracing the line, yet we contend, that by the laws of God, and by the laws of the conſtitution, a line there muſt be, beyond which her authority cannot extend. For all theſe laws are § " grounded on reaſon, full of juſtice, † and true equity," mild,

§ *Parlt. Deb.* 7. 409. " What of that? Shall not we give judgment, becauſe it is not adjudged in the books before? We will give judgment ACCORDING TO REASON, and if there be no reaſon in the books, I will not regard them " Speech of *Anderſon*, Lord chief juſtice of the queen's bench, in the reign of *Elizabeth*. GOULDSB. REP. 96. *edit.* 1653.

† " It ſeems to me, that the *natural juſtice*, which is a duty of man, ought to be ſtyled the *parent, and nouriſher, of every other virtue:* and aſſuredly, without this habit, a man can neither moderate his deſires, nor be brave, nor wiſe. For, it is a *harmony*, and peace, of the whole ſoul; with a full concert of words, and actions: And the dominion of ſuch a habit may be rendered more conſpicuous, if we examine the other habits of virtue. For the good of theſe is private,

mild, and calculated to promote the freedom and welfare of men. Their objects never can be attained by abolishing every restriction, on the part of the *governors*, and extinguishing every right, on the part of the *governed*.

Suppose it be allowed, that the line is not *expressly drawn*, is it thence to be concluded, there is no *implied* line? No English lawyer, we presume, will venture to make the bold assertion. "The King may reject what bills, may make what treaties, may coin what money, may create what peers, and may pardon what of-

 fences,

private, respecting the individual; but the good of *natural justice* respects whole systems, and throughout the universe."—

In the *celestial system* of the world, as it marshals out the universal rule of things, which are thus decreed by God; it is *providence*, and *harmony*, and *right*. In a *civil state*, it is justly called *peace*, and *good order*. In a *domestic state*, it is the *like mindedness* of husband, and wife, towards each other; the *good will* of subordinate members. In the *body*, it is *health*, and *symmetry* of parts; which are principal things, and much beloved by every living creature. In the *soul*, it is *wisdom*; that wisdom which arises amongst men, from the *knowledge of causes*, and from *natural justice*.

Since therefore, this habit doth thus instruct, and preserve, the whole and every part; rendering all the same, in heart, and in tongue, why may it not be saluted, by the universal voice; THE PARENT AND NOURISHER OF EVERY VIRTUE?"

POL. PYTH. LUC. *apud* STOBÆUM, pa. 105, *edit. Tiguri*, 1559.

fences, HE PLEASES." ‡ But is his prerogative reſpecting theſe branches of it, unlimited? By no means. The words following thoſe next above quoted from the "commentaries on the laws of *England*," are---"unleſs where the conſtitution hath *expreſsly*, or *by* EVIDENT CONSEQUENCE, laid down ſome *exception* or BOUNDARY; *declaring*, that thus far the prerogative ſhall go, and no farther." There are "ſome boundaries" then, beſides the "expreſs exceptions;" and according to the ſtrong expreſſion here uſed, "the conſtitution DECLARES there are." What "evident conſequence" forms thoſe "boundaries?"

THE happineſs of the people is the end, and, if the term is allowable, we would call it the body of the conſtitution. Freedom is the ſpirit or ſoul. As the ſoul, ſpeaking of nature, has a right to prevent or relieve, if it can, any miſchief to the body of the individual, and to keep it in the beſt health; ſo the ſoul, ſpeaking of the conſtitution, has a right to prevent, or relieve, any miſchief to the body of the ſociety, and to keep that in the beſt health. The "evident conſequence" mentioned, muſt mean a tendency to injure this health, that is, to diminiſh the happineſs of the people---or it muſt mean

‡ 1 BLACKST. COM. 250.

mean nothing. If therefore, the conſtitution "DECLARES *by evident conſequence*;" that a tendency to diminiſh the happineſs of the people, is a proof, that power exceeds a "boundary," beyond which it ought not to "go;" the matter is brought to this ſingle point, whether taking our money from us without our conſent, depriving us of trial by jury, changing conſtitutions of government, and aboliſhing the priviledge of the writ of *habeas corpus*, by ſeizing and ‖ carrying us to *England*, have not a greater

‖ "Of great importance to the public is the preſervation of this perſonal liberty: for if once it were left in the power of any, the higheſt magiſtrate, to impriſon *arbitrarily*, whomever he or *his officers* thought proper, (as in *France* it is daily practiſed by the crown) THERE WOULD SOON BE AN END OF ALL OTHER RIGHTS AND IMMUNITIES."—— "A natural and regular conſequence of this perſonal liberty is, that every *Engliſhman* may claim A RIGHT TO ABIDE IN HIS OWN COUNTRY SO LONG AS HE PLEASES, and not to be driven from it unleſs by the ſentence of law. Exile or tranſportation is a puniſhment *unknown to the common law*.—"The king cannot conſtitute a man lord lieutenant of *Ireland* againſt his will, nor make him a foreign ambaſſador. For this might in reality be no more than an honorable exile." 1 BLACKSTONE 135 to 138.

"Theſe precedents collected by the reverend and learned judge, chief juſtice *Anderſon* and all written with his own hand, do fully reſolve for the maintenance of the *antient* and *fundamental* point of LIBERTY OF THE PERSON, to be regained by *Habeas Corpus*, when any one is impriſoned." Parl. Hiſt. 7. 418.

er tendency to diminiſh our happineſs, than any enormities a King can commit under pretence of prerogative can have to diminiſh the happineſs of the ſubjects in *England*. To come to a deciſion upon this point, no long time need be required. To make this compariſon, is ſtating the claim of parliament in the moſt favourable light: For it puts the *aſſumed* power of parliament, to do, "IN ALL CASES WHATSOEVER," *what they pleaſe*, upon the ſame footing with the *acknowledged* power of the King, "to make what peers---pardon what offences, &c. *he pleaſes*." But in *this* light that power is not entitled to be viewed. Such is the wiſdom of the *Engliſh* conſtitution, that it "declares" the King may tranſgreſs a "boundary laid down by evident conſequence," even by uſing *the power* with which he is *expreſsly* veſted by the conſtitution, in doing *thoſe very acts* which he is *expreſsly* truſted by the conſtitution to do---as by creating too many or improper perſons, peers; or by pardoning too many or too great offences, &c. But has the conſtitution of ENGLAND *expreſsly* "declared," that the parliament of GREAT-BRITAIN may take away the money of ENGLISH coloniſts without their conſent, and deprive them of tryal by jury, &c? It cannot be pretended. True it is, that it has been ſolemnly declared by *parliament*, that *parliament has* ſuch a power. But that declaration leaves the point juſt as it was before: For if parliament

ment had not the power before, the declaration could not give it. Indeed if parliament is really "omnipotent," * that power is juſt and conſtitutional. We further obſerve, that no *Engliſh* lawyer, as we remember, has pointed out preciſely the line beyond which, if a king, ſhall "go," reſiſtance becomes *lawful*. General terms have been uſed. The learned author of thoſe commentaries, that notwithſtanding ſome human frailties, do him ſo much honor, has thought proper, when treating of this ſubject, to point out the "*precedent*" of the revolution, as fixing the line. We would not venture any reflexion on ſo great a man. It may not become us. Nor can we be provoked by his expreſſions concerning coloniſts; becauſe they perhaps contain his real, though haſty ſentiments. Surely, it was not his intention to condemn thoſe excellent men, who caſting every tender conſideration behind them, nobly preſented themſelves againſt the tyranny of the unfortunate and miſguided *Charles*'s reign; thoſe men, whom the houſe of commons, even after the reſtoration, would not ſuffer to be cenſured.

We are ſenſible of the objection that may be made, as to drawing a line between rights on each ſide, and the caſe of a plain violation of rights. We think it not material. Circumſtances have *actually* produced, and may again produce this

* 1 Blackſtone, 161.

this queſtion.—What conduct of a prince renders reſiſtance lawful? *James* the ſecond and his father violated *expreſs rights of their ſubjects*, by doing what *their own expreſs rights* gave them no title to do, as by raiſing money, and levying troops, without conſent of parliament. It is not even *ſettled*, what violation of thoſe will juſtify reſiſtance. But may not ſome future prince confining himſelf to the exerciſe of *his own expreſs rights*, ſuch as have been mentioned, act in a manner, that will be a tranſgreſſion of a "boundary" laid down by "evident conſequence," the "conſtitution *declaring* he ſhould go no further"? May not this exerciſe of theſe *his expreſs rights*, be ſo far extended, as to introduce *univerſal confuſion* and a *ſubverſion of the ends of government?* The whole may be oppreſſive, and yet any ſingle inſtance legal. The caſes may be improbable; but we have ſeen and now feel events once as little expected. Is it not *poſſible*, that one of theſe caſes *may* happen; If it *does*, has the conſtitution *expreſsly* drawn, a line, beyond which reſiſtance becomes lawful? It has not. But it may be ſaid, a king *cannot arm* againſt his ſubjects---he *cannot raiſe money*, without conſent of parliament. This is the conſtitutional check upon him. If he ſhould, it would be a violation of *their expreſs rights*. If *their purſes* are ſhut, *his power* ſhrinks. True. Unhappy coloniſts! Our money may be taken from us---and ſtanding armies eſtabliſhed over

us,

us, without our conſent---every *expreſsly* declared conſtitutional check diſſolved, and the modes of oppoſition for relief ſo contracted, as to leave us only the miſerable alternative of ſupplication or violence. And theſe, it ſeems, are the liberties of *Americans*. *Becauſe* the conſtitution has not "*expreſsly declared*" the line between the rights of the mother country and *theſe* of her coloniſts, THEREFORE, the latter have *no rights*. A logic, equally edifying to the heads and hearts of men of ſenſe and humanity.

WE aſſert, a line there muſt be, and ſhall now proceed with great deference to the judgment of others, to trace that line, according to the ideas we entertain: And it is with ſatisfaction we can ſay, that the records, ſtatutes, law-books, and moſt approved writers of our mother country, thoſe "dead but moſt faithful counſellors" (as Sir *Edward Coke* calls them) "who cannot be daunted by fear, nor muzzled by affection, reward, or hope of preferment, and therefore may ſafely be believed," confirm the principles we maintain.

LIBERTY, life, or property, can, with no conſiſtency of words or ideas, be termed a *right* of the *poſſeſſors*, while *others* have a *right* of taking them away *at pleaſure*. The moſt diſtinguiſhed

authors, that have written on government, declare it to be "inſtituted *for the benefit of the people*; and that it never will have this tendency, where it is *unlimited*." Even conqueſt * itſelf is held not to deſtroy all the right of the conquered

* "But in order to ſay ſomething more particular concerning this ſubject, let us obſerve that the natural ſtate of nations in reſpect to each other, is that of ſociety and peace. This ſociety is likewiſe a ſtate of equality and independance, which eſtabliſhes a parity of right between them; and engages them to have the ſame regard and reſpect for one another. Hence the general principle of the law of nations is nothing more than the general law of ſociability, which obliges all nations that have any intercourſe with one another, to practiſe thoſe duties to which individuals are naturally ſubject.

"Theſe remarks may ſerve to give us a juſt idea of that art, ſo neceſſary to the directors of ſtates, and diſtinguiſhed commonly by the name of *polity*. Polity conſidered with regard to foreign ſtates, is that ability and addreſs by which a ſovereign provides for the preſervation, ſafety, proſperity and glory of the nation he governs, by reſpecting the laws of juſtice and humanity; that is, without doing any injury to other ſtates, but rather by procuring their advantage, as much as in reaſon can be expected. Thus the polity of ſovereigns is the ſame as prudence among private people; and as we condemn in the latter any art or cunning, that makes them purſue their own advantage to the prejudice of others, ſo the like art would be cenſurable in princes, were they bent upon procuring the advantage of their own people by injuring other nations. The *reaſon of ſtate*, ſo often alledged to juſtify the proceedings or enterpriſes of princes, cannot really be admitted for this end, but inaſmuch as it is reconcileable with the common intereſt of

conquered. Such is the merciful reverence judged by the beſt and wiſeſt men to be due

 to

of nations, or which amounts to the ſame thing, with the unalterable rules of ſincerity, juſtice, and humanity."

" *Grotius* indeed acknowledges that the law of nature is common to all nations; yet he eſtabliſhes a poſitive law of nations contradiſtinct from the law of nature; and reduces this law of nations to a ſort of human law, which has acquired a power of obliging in conſequence of the will and conſent of all or of a great many nations.‡ He adds, that the maxims of this law of nations are proved by the perpetual practice of people, and the teſtimony of hiſtorians.

" But it has been juſtly obſerved that this pretended law of nations, contradiſtinct from the law of nature, and inveſted nevertheleſs with a force of obliging, whether people conſent to it or not, is a ſuppoſition deſtitute of all foundation.*

" For 1. all nations are with regard to one another in a natural independance and equality. If there be therefore any common law between them, it muſt proceed from God their common ſovereign.

" 2. As for what relates to cuſtoms eſtabliſhed by an expreſs or tacit conſent among nations, theſe cuſtoms are neither of themſelves, nor univerſally, nor always obligatory. For from this only that ſeveral nations have acted towards one another for a long time after a particular manner in particular caſes, it does not follow that they have laid themſelves under a neceſſity of acting always in the ſame manner for the time to come, and much leſs that other nations are obliged to conform to theſe cuſtoms.

" 3. Again; theſe cuſtoms are ſo much the leſs capable of being an obligatory rule of themſelves, as they may happen to

‡ See Grotius, rights of war and peace: preliminary diſcourſe §. 18. and book 1. chap. 1. §. 14.

* See Puffendorf, law of nature and nations, book 2. chap. 3. §. 23. with Barbeyrac's notes.

to human nature, and frequently obſerved even by conquerors themſelves.

In

ſo be bad or unjuſt. The profeſſion of a corſair or pyrate, was by a kind of conſent, eſteemed a long while as lawful, between nations that were not united by alliance or treaty. It ſeems likewiſe, that ſome nations allowed themſelves the uſe of poiſoned arms in time of war.‖ Shall we ſay that theſe were cuſtoms authoriſed by the law of nations, and really obligatory in reſpect to different people? Or ſhall we not rather conſider them as barbarous practices; practices from which every juſt and well governed nation ought to refrain. We cannot therefore avoid appealing always to the law of nature, the only one that is really univerſal, whenever we want to judge whether the cuſtoms eſtabliſhed between nations have any obligatory effect.

" 4. All that can be ſaid on this ſubject is, that when cuſtoms of an innocent nature are introduced among nations; each of them is reaſonably ſuppoſed to ſubmit to thoſe cuſtoms, as long as they have not made any declaration to the contrary. This is all the force or effect that can be given to received cuſtoms; but a very different effect from that of a law properly ſo called."

Burlamaq. *Princ. of nat. law*, 1 *vol. p.* 196—199.

' But I will conclude with that which I find reported by ſir *John Davis*, who was the king's ſergeant; and ſo, by the duty of his place, would no doubt maintain, to the uttermoſt of his power, the king's prerogative royal; and yet it was by him thus ſaid, in thoſe reports of his upon the caſe of *taniſtry cuſtoms*,' ' That the king's of *England* always ' have had a monarchy royal, and not a monarchy ſignoral; ' where, under the firſt, ſaith he, the ſubjects are free ' men, and have property in their goods, and freehold and ' inheritance in their lands; but, under the latter, they are

' as

‖ See Virgil Æneid, book 10. v. 139. with the 15th note of the Abbe des Fontaines.

In fine, a power of government, in its nature tending to the misery of the people, as a power that is *unlimited*, or in other words, a power *in which the people have no share*,§ is proved to be, by reason and the experience of all ages and countries,

'as villains and slaves, and have property in nothing. 'And therefore, saith he, when a royal monarch makes a 'new conquest, yet, if he receives any of the nation's anti- 'ent inhabitants into his protection; they, and their heirs 'after them, shall enjoy their lands and liberties according 'to the laws' And there he voucheth this precedent and judgment following, given before *William the conqueror* himself, *viz.*

'That one *Sherborn*, at the time of the conquest, being 'owner of a castle and lands in *Norfolk*, the conqueror gave 'the same to one *Warren*, a *Norman*; and, *Sherborn* dying, 'the heir claiming the same by descent according to the 'law, it was, before the conqueror himself, adjudged for 'the heir, and that the gift thereof by the conqueror was 'void.'‖ PARL. DEBATES, 7 *vol. pa.* 384.

See also *Puffendorf*'s law of nature and nation's, b. 3. ch. 8. and b. 8. ch 6.

It is held by the best writers, that a conqueror in a just war, acquires not a right to the propetry of those of the subdued country, who opposed him not, nor of the posterity of those who did: Nor can the pretence of obtaining satisfaction for the charges and damages of the war justify such a claim.

§ "In a free state, every man, who is supposed *a free agent*, ought to be, in some measure *his own governor*, and therefore a branch, at least of the *legislative power ought to reside*

‖ See Davis's reports, Lond. 1628, p. 41.

countries, cannot be a *rightful* or *legal* power. For, as an excellent Biſhop of the Church of *England*

reſide in the whole body of the people. And this power, when the territories of the ſtate are ſmall and its citizens eaſily known, ſhould be expreſſed by the people in their aggregate or collective capacity, as was wiſely ordained in the petty republics of *Greece*, and the firſt rudiments of the Roman ſtate. But this will be highly inconvenient when the public territory is extended to any conſiderable degree, and the number of citizens is increaſed. In ſo large a ſtate as ours, it is therefore very wiſely contrived that the people ſhould do that by their repreſentatives, which it is impracticable to perform in perſon." 1 BLACKSTONE 158. 159.

The above quoted words are ſufficient of themſelves to refute the notion of " virtual repreſentation" of *Americans* in parliament.

As to the argument drawn from ſimilitude between the caſe of *thoſe* in *England*, not qualified to vote by their property, though poſſeſſed of a conſiderable ſhare, as proprietors of the funds—The *Eaſt India* company—merchants—manufacturers &c. and the caſe of coloniſts, the true anſwer is, that there is no reſemblance whatever between the caſes. A few propoſitions will prove it: But it may be proper to premiſe—1ſt. If *repreſentation* was *intended* by the *conſtitution* of *England*, a *complete* repreſentation was intended; for the reaſon of having *any*, requires having a complete one, as being the *beſt*. 2dly.—If a *complete* repreſentation was *intended* by the conſtitution, every *defect* in the repreſentation, is *againſt* the *intention* of the *conſtitution*. 3dly. If a reſpectable part of the people in *England* is not repreſented, *it is a defect*. 4thly. If therefore, the *intention* of the *conſtitution* is to be regarded *as the conſtitution*, it involves *a plain abſurdity*, to infer *a greater* defect being *conſtitutional*, from a *ſmaller* defect which is *unconſtitutional*. 5thly. The *intention* of the conſtitution *muſt be* regarded—and *practices inconſiſtent* with its deſign, muſt be amended by it, if the *happineſs*

which

England argues, ‡ " the *ends of government* cannot be anſwered by a total diſſolution of all happineſs at preſent, and of all hopes for the future."

THE

which it means to promote and ſecure, is to be regarded. 6thly. If there is not ſuch a *repreſentation* in *England*, as the conſtitution requires, there *ought* to be. As to the reſemblance above ſuppoſed. 1ſt. If many inhabitants of *England* HAVE NOT a right to vote in the choice of members of the houſe of commons, there are many who HAVE. 2dly. *Not one* inhabitant of the colonies, *has* that right. 3dly. *Some* repreſentation is better than *none*, though a *complete* one cannot be obtained. The *firſt*, is a *defect* of *mode*, the *latter* an *extinction* of the *ſubſtance*. There is, to a *nice* obſerver of nature, a *perceptible* difference between a *deformed* man and a DEAD man. 4thly. Proprietors of the funds &c. tho' they have no right to ſuch vote, *as proprietors* &c. may yet have it under another character, *as freeholders* &c. 5thly. When acting *as freeholders &c.* they may take care of their intereſts *as proprietors &c.* for—6thly. *Their being proprietors &c.* does not *diſqualify* them, from acquiring and enjoying a right to ſuch vote *by becoming freeholders &c.* but 7thly. By acquiring and enjoying a right to ſuch vote, the *coloniſts* muſt *ceaſe* to be inhabitants of the colonies —8thly. Their *being inhabitants of the colonies*, therefore *diſqualifies* them from acquiring and enjoying the right to ſuch vote.—9thly. If thoſe not entitled to ſuch vote in *England* were not bound by ſtatutes made *there* they would not be bound by ſtatutes, nor taxed *at all*, though poſſeſt of great property—but 10thly. The coloniſts are *bound and taxed* by the acts of their aſſemblies. 11thly. Even thoſe not entitled to ſuch vote in *England*, and incapable of obtaining it, have this protection, that ~~becauſe~~ *repreſentatives* and *their electors* are bound by the laws made, as well as *the reſt of the people*—and the

‡ HOADLEY's Diſc. on government.

THE juſt inference therefore from theſe premiſes would be an excluſion of *any* power of parliament over theſe colonies, rather than the admiſſion of an *unbounded* power.

WE

the connections between the *repreſentatives*, their *electors*, and the *reſt of the people*, all living together in the ſame kingdom, are ſo many and ſo intimate, that even the *actually unrepreſented* cannot be affected, unleſs the *repreſentatives* and *their electors* are affected alſo. 12thly. Totally different is the condition of coloniſts, if bound by ſtatutes generally.—By the acts of parliament for raiſing a revenue in *America*, the commons uſe the words, "GIVE AND GRANT." Can men give and grant what they have not? Did any of thoſe acts take a ſingle penny out of the pocket of a ſingle GIVER and GRANTOR? No. So far from it, that if there is any truth in the proverb, and money ſaved is money got, theſe "*dona ferentes*" gentlemen put money into their pockets by their †"loyal and dutiful" generoſity. EVERY INDIVIDUAL of them acquired by beſtowing. Pretenſions *thus* to *give*, are ſuch contradictions to fact and ſenſe, that in *making* them a ſanction of injuſtice is ſought from a principle of the conſtitution, and in *deſcribing* them, a ſoleciſm in ſpeech becomes a proper expreſſion. It muſt be acknowledged however, that the commons are more than ſound divines, for they improve upon the text, ‡ and "*count* their *loſs* for *gain*."

Statutes might grind us, while not an *elector* in *England* would know or regard our ſufferings—if acquainted with them, he might think the ſtatutes inflicting them, JUST and POLITICAL. An open avowal has been made in parliament—that it is §"the INDISPENSIBLE DUTY of parliament,

† Preambles to ſtatutes for raiſing a revenue in *America*.

‡ *Philippians* III. 7.

§ Theſe words are extracted from the proteſt of the lords on the repeal of the *American* ſtamp-act—§. 6.—61 lords were againſt the repeal, 33 of them ſigned the proteſt.

We well know, that the coloniſts are charged by many perſons in *Great Britain*, with attempting to obtain ſuch an excluſion and a total independance on her. As well we know the accuſation to be utterly falſe. We are become criminal in the ſight of ſuch perſons, by refuſing to be guilty of the higheſt crime againſt ourſelves and our poſterity. NOLUMUS LEGES ANGLIÆ MUTARI. This is the rebellion with

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liament *to tax the colonies* IN ORDER TO EASE THE GENTRY AND PEOPLE OF GREAT-BRITAIN." Let not *Americans* ever forget the lordly words! To underſtand them *fully*, we ſhould conſider—

Our diſpute includes not only the preſent taxes laid upon us. The univerſal property of *England* was intereſted in Mr. *Hambden*'s ſuit, about a few ſhillings. If the crown had a right to *thoſe* ſhillings, it had a right to *every* ſhilling of *every* man in the kingdom. *Great Britain* is about ONE HUNDRED AND FORTY MILLIONS OF POUNDS STERLING in debt. If ſhe can pay *any part* of that debt, by taxing us, ſhe may pay *the whole* by taxing us, if we can raiſe the money. If we cannot, yet as we are upbraided continually in pamphlets and papers with the richneſs of our houſes, our furniture, our equipage, our tables, and our dreſs, ſhe may be made to think we abound too much in theſe *conveniencies*. If we are reduced to the condition of *French* peaſants, it is no matter. We belong to the people of *Great-Britain*: And all *Britiſh* ſubjects, but *Americans*, may do what they pleaſe with their own. "It is her indiſpenſible DUTY, ſay their lordſhips, to eaſe herſelf by taxing us;" and ſurely there is virtue enough left in a *Britiſh* parliament, notwithſtanding all the dreadful intelligence *Britiſh* writers ſend us over, to perform *that* "duty," exactly. But this is not all. There are certain wicked

Frenchmen

which we are ſtigmatized. [We have committed the like offence, that was objected by the polite and humane *Fimbria* againſt a *rude* ſenator of his time. We have " *diſreſpectfully* refuſed to receive the *whole* weapon into our body." We could not do it, *and live.* But *that* muſt

Frenchmen and *Spaniards*, that in every period of twenty or thirty years oblige *Great-Britain* to add thirty or forty millions to her debt. Upon an average, ſince the revolution, ſhe runs annually in debt about a million and an half. Can it be expected, her miniſters will be kinder to us, than they have been to her ? Where will the demand upon us, where will our wretchedneſs ſtop, if we have not reſolution enough to defend ourſelves ?

A ſtatute intended to have force on the people of *Great-Britain*, is the caſe of A STATE *acting upon* ITSELF. A ſtatute intended to have force on the people of *America*, is the caſe of ONE *ſtate acting upon* ANOTHER. The people of *Great-Britain*, who in the firſt caſe are *ſubject to* the ſtatute —in the ſecond, are the abſolute ſovereigns *who impoſe* it on others.

" Virtual repreſentation" then, as applied to coloniſts— is, to borrow expreſſions of the excellent archbiſhop *Tillotſon*, on another occaſion, altering only two words—" An abſurdity of that monſtrous and maſſy weight, that no human authority or wit are able to ſupport it. It will " make the very pillars of St." *Stephens* " crack, and requires more volumes to make it good than would fill" *Weſtminſter Hall.*

Yet this moſt deſpicable notion has been the *pretence, for our fellow ſubjects* †clapping muſkets to our breaſts, and taking our money out of our pockets.

† " *Win their hearts*, and you may ſoon have their *hands* and *purſes*," was the advice of old lord *Burleigh* to queen *Elizabeth*. She was wiſe enough to take it. The world knows the conſequences.

muſt be ackrowledged to be a poor excuſe, equally inconſiſtent with good breeding and the ſupreme legiſlature of *Great-Britain.*]

For theſe ten years paſt we have been inceſſantly ‖ attacked. Hard is our fate, when, to eſcape the character of rebels, we muſt be degraded into that of ſlaves: as if there was no medium, between the two extremes of anarchy and deſpotiſm, where innocence and freedom could find repoſe and ſafety.

Why ſhould we be exhibited to mankind, as a people adjudged by parliament unworthy of freedom? The thought alone is inſupportable. Even thoſe unhappy perſons, who have had the misfortune of being born under the yoke of bondage, impoſed by the cruel laws, if they may be called laws, of the land, where they received their birth, no ſooner breathe the air of *England*, though they touch her ſhore only by accident, § than they inſtantly become freemen.

‖ 4 Geo. 3, ch. 15. 4 Geo. 3, ch. 34. 5 Geo. 3, ch. 12. 5 Geo. 3, ch. 45. 6 Geo. 3, ch. 12. 6 Geo. 3, ch. 52. 7 Geo. 3, ch. 41. 7 Geo. 3, ch. 59. 8 Geo. 3, ch. 22. The reſolves that coloniſts may be tried in *England* under the 35 Hen. 8.—The blockade of *Boſton*—the *Rhode-Iſland* court, &c. &c.

§ *Somerſet*'s caſe.

Strange contradiction. * The *ſame* kingdom at the *ſame* time, the *aſylum* and the *bane* of liberty.

To return to the charge againſt us, we can ſafely appeal to that Being, from whom no thought can be concealed, that our warmeſt wiſh and utmoſt ambition is, that we and our poſterity may ever remain ſubordinate to, and dependant upon our parent ſtate. This ſubmiſſion our reaſon approves, our affection dictates, our duty commands, and our intereſt enforces. If

* To this contradiction, the following may be added—Her policy *at once* to keep peace with her *natural enemies*, and to provoke her *natural friends*, whoſe aſſiſtance one day —and that day ſeems to be approaching—in the viciſſitudes of human affairs, great as ſhe is, ſhe may want;—her intereſt, as ſhe thinks, to *protect* and to *oppreſs* PROTESTANT countries—to abhor a *large ſtanding army*, and yet voluntarily to put herſelf under the abſolute neceſſity, of perpetuating an *immenſely large one*, to govern the many millions of ſlaves ſhe expects ſoon to have on this vaſt continent. Two of the ſhrewdeſt, though not beſt emperors, that ever lived, *Auguſtus* and *Tiberius*, prohibited every man of diſtinction from ſetting his foot in *Egypt*, * becauſe of the importance of that province to *Rome*. But *Great Britain*, as if theſe numerous provinces, much more remote from her, than *Egypt* from *Rome*, were of little conſequence, willingly obliges herſelf to truſt a mighty armed power into the hands of a ſubject, in theſe colonies, the tempting intereſt of which ſubject and of the people, may engage them to unite in eſtabliſhing an independant empire, on her own model. *Great-Britain* ought not to forget, that *Rome* was ruined by keeping ſtanding armies in her provinces.

* Tac.

If this ſubmiſſion indeed implies a diſſolution of our conſtitution, and a renunciation of our liberty, we ſhould be unworthy of our relation to her, if we ſhould not frankly declare, that we regard it with * horror; and every true true *Engliſhman* will applaud this juſt diſtinction and

* The *Privernates* had revolted from the *Romans*, but were reduced. The queſtion was, what judgment ſhould be given againſt them. This is *Livy*'s account of the affair, in the 21ſt chapter of his 8th book.

" Quum ipſa per ſe res anceps eſſet, prout cujuſque ingenium erat, atrociûs mitiûſve ſuadentibus; tum incertiora omnia unus ex Privernatibus legatis fecit, magis conditionis, in qua natus eſſet, quàm præſentis neceſſitatis, memor: qui, interrogatus à quodam triſtioris ſententiæ auctore, *quam pœnam meritos Privernates cenſeret? eam*, inquit, *quam merentur, qui ſe libertate dignos cenſent:* cujus quum feroci reſponſo infeſtiores factos videret conſul eos, qui antè Privernatium cauſam impugnabant; ut ipſe benignâ interrogatione mitius reſponſum eliceret, *Quid, ſi pœnam*, inquit, *remittimus vobis, qualem nos pacem vobiſcum habituros ſperemus? Si bonam dederitis*, inquit, *& fidam, & perpetuam: ſi malam, haud diuturnam.* Tum verò minari, nec id ambiguè, Privernatem quidam, & illis vocibus ad rebellandum incitari pacatos populos, pars melior ſenatûs ad meliora reſponſum trahere, & dicere, *Viri, & liberi, vocem auditam, an credi poſſe, ullum populum, aut hominem aeque, in ea conditione, cujus eum pœniteat, diutiùs, quàm neceſſe ſit, manſurum? Ibi pacem eſſe fidam, ubi voluntarii pacati ſunt: neque eo loco, ubi ſervitutem eſſe velint, fidem ſperandam eſſe.* In hanc ſententiam maximè conſul ipſe inclinavit animos, identidem ad principes ſententiarum conſulares, uti exaudiri poſſet à pluribus, dicendo, *Eo. venum, qui nihil, præterquam de libertate, cogitent, dignos eſſe, qui Romani fiant.* Itaque & in ſenatu cauſam obtinuere, & ex auctoritate Patrum latum ad populum eſt, ut Privernatibus CIVITAS DARITUR,"

and candid declaration. [Our defence neceſſarily touches chords in uniſon with the fibres of his honeſt heart. They muſt vibrate in ſympathetic tones. If we, his kindred, ſhould be baſe enough to promiſe the humiliating ſubjection, he could not believe us. We ſhould ſuffer all the infamy of the engagement, without finding the benefit expected from being thought as contemptible as we ſhould undertake to be.]

But this ſubmiſſion implies not ſuch inſupportable evils: and our amazement is inexpreſſible, when we conſider the gradual increaſe of theſe colonies, from their ſlender beginnings in the laſt century to their late flouriſhing condition, and how prodigiouſly, ſince their ſettlement, our parent ſtate has advanced in wealth, force and influence, till ſhe is become the firſt power on the ſea, and the envy of the world---that theſe our better days ſhould not ſtrike conviction into every mind, that the freedom and happineſs of the coloniſts are not inconſiſtent with her authority and proſperity.

The experience of more than one hundred years will ſurely be deemed, by wiſe men, to have ſome weight in the ſcale of evidence to ſupport our opinion. We might juſtly aſk of her, why we are not permitted to go on, as we have been uſed to do ſince our exiſtence,

con-

conferring mutual benefits, thereby ſtrengthening each other, more and more diſcovering the reciprocal advantages of our connection, and daily cultivating affections, encouraged by thoſe advantages ?

[What unknown offences have we committed againſt her within theſe ten years, to provoke ſuch an unexampled change in her conduct towards us ? In the laſt war, ſhe acknowledged us repeatedly, to be faithful, dutiful, zealous and uſeful in her cauſe. Is it criminal in us, that our numbers, by the favour of Divine Providence have greatly encreaſed ? That the poor chuſe to fly from their native countries in *Europe* to this continent ? Or, that we have ſo much improved theſe woods, that if we can be forced into an unſucceſsful reſiſtance, avarice itſelf might be ſatiated with our forfeitures ?]

It cannot with truth be urged, that projects of *innovation* have commenced with us. Facts and their dates prove the contrary. † Not a diſturbance has happened on any part of this continent,

† " The winds lift up the waves",—ſaid a wiſe man—yet we read of a weak man, who ſcourged waves—but he had not raiſed them. *To excite* commotions, and then to ſcourge *for being excited*, is an addition to the wildneſs of a *Xerxes*, reſerved more particularly to diſtinguiſh the preſent age, already ſufficiently illuſtrious by the injuries offered to the rights of human nature.

continent, but in conſequence of ſome immediately preceding provocation.

To what purpoſe? The charge of our affecting one great, or many ſmall republics, muſt appear as contemptible a madneſs to her, as it does to us. Divided as we are into many provinces, † and incapable of union, except againſt

† The genius of a *Beccaria*, ſuggeſted to him the condition of a large empire verging into ſervitude—the only plan for ſaving it,—and the difficulty of executing that plan. "An overgrown republic (ſays he, and ſuch a limited monarchy as that of *Great-Britain* with ſuch an extent of dominions, may well be called, "an overgrown republic,") can *only* be ſaved from deſpotiſm, *by ſubdividing it into a number of confederate republics.* But how is this practicable? By a deſpotic dictator, who with the courage of *Sylla*, has as much genius for building up, as that *Roman* had for pulling down. If he be an ambitious man, his reward, will be immortal glory; if a philoſopher, the bleſſings of his fellow citizens will ſufficiently conſole him for the loſs of authority, though he ſhould not be inſenſible to their ingratitude."

What was argument in *Italy*, is reality to *Great-Britain*, with this additional circumſtance in her favor, that ſhe muſt always continue if ſhe wiſely conducts her affairs, though leſs than *all*, yet greater than *any*. The immenſe advantages of ſuch a ſituation, are worthy the cloſeſt attention of every *Briton*. To a man, who has conſidered them with that attention, perhaps it will not appear too bold to aver, that, if an archangel had planned the connexion between *Great-Britain* and her colonies, he could not have fixed it on a more laſting and beneficial foundation, unleſs he could have

againſt a common danger, ſhe knew, that we could not think of embarking our treaſures

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have changed human nature. A mighty naval power at the head of the whole—that power, a parent ſtate, with all the endearing ſentiments attending the relationſhip—that never could diſoblige, but with deſign—the dependant ſtates much more apt to have feuds among themſelves—ſhe the umpire and controuler—thoſe ſtates producing every article neceſſary to her greatneſs—their intereſt, that ſhe ſhould continue free and flouriſhing—their ability to throw a conſiderable weight into the ſcale, ſhould her government get UNDULY POISED—ſhe and all thoſe ſtates PROTESTANT—are ſome of the circumſtances, that delineated by the maſterly hand of a *Beccaria*, would exhibit a plan, vindicating the ways of heaven, and demonſtrating, that humanity and policy are nearly related. An *Alexander*, a *Cæſar*, a *Charles*, a *Lewis*, and others have fought through fields of blood, for univerſal empire. *Great-Britain* has a certainty, by population and commerce alone, of attaining to the moſt aſtoniſhing and well founded power the world ever ſaw. The circumſtances of her ſituation are new and ſtriking. Heaven has offered to her, glory and proſperity without meaſure. Her wiſe miniſters diſdain to accept them—and prefer—" *a pepper corn.*"*

So directly oppoſite to the intereſt of *Great Britain*, has the conduct of *adminiſtration* been for ſome time paſt, that it may ſafely be affirmed, that, in their view was, to eſtabliſh arbitrary power over *Great-Britain*, ſchemes more dangerous could not have been laid. To profeſs this purpoſe, would enſure a defeat. Any man, who had ſuch a deſign, would firſt take the opportunity of peace, TO SET ONE PART OF THE SUBJECT AGAINST THE OTHER.—This might be done in the following manner.

Let

* Mr. *Nugent*'s ſpeech.

of tranquility and liberty, on an ocean of blood, in a wandering expedition to ſome *Utopian* port.

Let every ſeſſion of parliament produce a freſh injury. Give no reſt, or hope of reſt. Let inſult added to inſult, fill up the vacancies between the ſeſſions. Teaſe and perſecute into oppoſition. Then let miniſters themſelves rejoice in the freedom of the preſs. Let every action of the oppreſſed be exaggerated. Let innumerable falſe invectives be vented in pamphlets and news-papers. Let all the provocations and excuſes be concealed from public ſight as much as poſſible. Load the devoted with the terms of traytors and rebels. Nearly in this way *Scotland* was treated by the arbitrary miniſtry of *Charles* the firſt. But the parliament and people of *England* had common ſenſe and virtue. The baſe deception could not paſs upon them. They ſaw the ſnare laid *for them*; and reſented it ſo deeply, that an army of *Engliſhmen* fled before an army of *Scotchmen* at *Newburn*. For once it was glorious to fly. But it required *Engliſh* heads *&* *Engliſh* hearts to underſtand and to act the part.

Thus the colonies have been treated. At laſt a civil war may be worked up. It ſhould be conſidered, as Lord *Mansfield* expreſſes it—whether "the play is worth the candle." In ſuch a war, every victory will be a defeat. If the colonies are ſubdued, vaſt ſums muſt be raiſed, and a prodigious army muſt be ſupported, to keep them in ſubjection. *Great-Britain* muſt feel the weight of that influence, added to the power of the crown. The colonies are encreaſing. Who can compute the extent and effect of ſuch an influence¶? Undone by her victories,

¶ "But, on the other hand, it is to be conſidered, that every prince, in the firſt parliament after his acceſſion, has by long uſage a truly royal addition to his hereditary revenue ſettled upon him for his life; and has never any occaſion to apply to parliament for ſupplies, but upon ſome public neceſſity of the whole realm. This reſtores to him that conſtitutional independence which at his firſt acceſſion ſeems, it muſt be owned, to be wanting. And then, with

port. The hiſtory of mankind, from the remoteſt antiquity, furniſhes not a ſingle inſtance

tories, ſhe *muſt* reſign her LIBERTY or ſome future MONARCH WITH HER COLONIES, unleſs ſhe firſt loſes them in another way. If ſhe is unfortunate, public calamities may make great changes. Such changes ſeem to be intended by ſome men. *Great-Britain* has been led into the *Rubicon*. She has not yet paſt it. We conſider the hoſtilities already practiſed,

with regard to power, we may find perhaps that the hands of government are at leaſt ſufficiently ſtrengthened; and that an Engliſh monarch is now in no danger of being overborne by either the nobility or the people. The inſtruments of power are not perhaps ſo open and avowed as they formerly were, and therefore are the leſs liable to jealous and invidious reflections; but they are not the weaker upon that account. In ſhort, our national debt and taxes (beſides the inconveniencies before-mentioned) have alſo in their natural conſequences thrown ſuch a weight of power into the executive ſcale of government, as we cannot think was intended by our patriot anceſtors; who glorioufly ſtruggled for the abolition of the then formidable parts of the prerogative, and by an unaccountable want of foreſight eſtabliſhed this ſyſtem in their ſtead. *The entire collection and management of ſo vaſt a revenue, being placed in the hands of the crown*, have given riſe to ſuch a multitude of new officers, created by and removeable at the royal pleaſure, that they have extended the influence of government to every corner of the nation. Witneſs the *commiſſioners*, and the *multitude of dependents on the cuſtoms*, in every port of the kingdom; the *commiſſioners of exciſe*, and their *numerous ſubalterns*, in every inland diſtrict: the *poſtmaſters*, and their *ſervants*, planted in every town, and upon every public road; the *commiſſioners of the ſtamps*, and their *diſtributors*, which are full as ſcattered and full as numerous; the *officers of the ſalt duty*, which, though a ſpecies of exciſe and conducted in the ſame manner, are yet made a diſtinct corps from the ordinary managers of that revenue; the *ſurveyors of houſes and windows;* the *receivers of the land tax;* the *managers of lotteries;* and the *commiſſioners of hackney coaches;* all which are either mediately or immediately appointed by the crown, and removeable at pleaſure without any reaſon aſſigned: theſe, it requires but little penetration to ſee, muſt give that power, on which they depend for ſubſiſtence, an influence moſt amazingly extenſive. To this may be added the frequent opportunities of conferring particular obligations, by preference in *loans, ſubſcriptions, tickets, remittances* and *other money tranſactions*, which will greatly encreaſe this influence; and that over thoſe perſons whoſe attachment, on account of their wealth, is frequently

of a people conſiſting of huſbandmen and merchants,

tiſed, as the manœuvres of a miniſterial war. We know the machinations formed againſt us, and the favourite publications induſtriouſly ſpread abroad, to excite a jealouſy of us among our *Britiſh* brethren. We know how acceptable to many an earthquake would be to "ſink ſome of the colonies in the ocean"--and how pleaſing, to employ the reſt "in raiſing *ſtaple* commodities:" That we are thought "too numerous," and how much it would be judged by ſome for the intereſt of *Great Britain*, if a peſtilence ſhould ſweep off a million and a half of us. Theſe wonderful lucubrations have not eſcaped us. But here we are, by Divine Providence, three millions of ſouls. What can be done with

quently the moſt deſirable. All this is the natural, though perhaps the unforeſeen, conſequence of erecting our funds of credit, and to ſupport them eſtabliſhing our preſent perpetual taxes: the whole of which is intirely new ſince the reſtoration in 1660; and by far the greateſt part ſince the revolution in 1688. And the ſame may be ſaid with regard to the *officers* in our numerous army, and the places which the army has created. All which put together gives the executive power ſo perſuaſive an energy with reſpect to the perſons themſelves, and ſo prevailing an intereſt with their friends and families, as will amply make amends for the loſs of external prerogative.

"But, though this profuſion of offices ſhould have no effect on individuals, there is ſtill another newly acquired branch of power; and that is, not the influence only, but the *force of a diſciplined army*: paid indeed ultimately by the people, but immediately by the crown; raiſed by the crown, officered by the crown, commanded by the crown. They are kept on foot it is true only from year to year, and that by the power of parliament; but during that year they muſt, by the nature of our conſtitution, if raiſed at all, be at the abſolute diſpoſal of the crown. And there need but few words to demonſtrate how great a truſt is thereby repoſed in the prince by his people. A truſt, that is more than equivalent to a thouſand little troubleſome prerogatives.

"Add to all this, that, beſides the *civil liſt*, the *immenſe revenue* of almoſt ſeven millions ſterling, which is annually paid to the creditors of the public, or carried to the ſinking fund, is firſt depoſited in the royal exchequer, and thence iſſued out to the reſpective offices of payment. This revenue the people can never refuſe to raiſe, becauſe it is made perpetual by act of parliament; which alſo, when well conſidered, will appear to be a truſt of great delicacy and high importance."

1 BLACKSTONE's COM. b. 1. ch. 8. p. 334—336.

chants, voluntarily engaging in ſuch a phrenzy of

with us? If we were to be conſidered, only as ‖ PROTESTANT *allies*, we ought to be eſteemed by a wiſe people. Such a people certainly would not be careful to diſunite us from their intereſt—to make us foes when they might have us friends. Some ſtates have thought it true policy to grant greater indulgences to remote dominions, than were enjoyed by themſelves: And this policy has been much applauded. The enjoyment of valuable privileges by inferior ſtates, under the protection of a ſuperior, is the ſtrongeſt bond of dependance. Why ſhould we prefer a dependance on *Great-Britain* to a dependance on *France*, if we enjoy leſs freedom under the former, than we may under the latter? "*Firmiſſimum imperium, quo obedientes* GAUDENT"—or as lord chief juſtice *Coke* expreſſes it, in his comment on the 25th of *Edward* the third, "the ſtate of a king ſtandeth more aſſured by the love and favour of the ſubject, than by the dread and fear of laws, &c."† Ought *Great-Britain* to deſpiſe the advantages

‖ *Great-Britain* put herſelf to a very conſiderable expence laſt war in defence of *Portugal*, becauſe that kingdom was her ally, and ſhe derived great advantages from an intercourſe with her. But what are thoſe advantages or the affections ariſing from them, when compared to the advantages and affections that connect theſe Colonies with *Great-Britain?* Words cannot expreſs the ſurprize, that men free from paſſion muſt feel, on conſidering her impolicy, in labouring to diſjoin from herſelf the only true friends ſhe has in the world. If her miniſters were penſioners of *France* and *Spain*, they could not purſue meaſures more pleaſing and advantageous to to thoſe kingdoms.

† "During all our happy days of concord, partly from our national moderation, and partly from the wiſdom, and ſometimes perhaps from the careleſsneſs of our miniſters, they have been truſted in a good meaſure with the entire management of their affairs; and the ſucceſs they have met with ought to be to us an ever memorable proof, that THE TRUE ART OF GOVERNMENT IS NOT GOVERNING TOO MUCH. And why ſhould friendſhip and gratitude, and long attachments, which inſpire all the reliſh and ſweetneſs of private life, be ſuppoſed to be of no weight in the intercourſe between great communities? Theſe are principles of human nature, which act with much greater certainty on numbers than on individuals. If properly cultivated they may to us be productive of the nobleſt benefits; and, at all events, will neither leſſen the extent of our power, nor ſhorten the duration of it."

Biſhop of ST. ASAPH's Sermon, p. 13.

of ambition. No. Our higheſt pride and glory has been, with humble unſuſpecting duty * to labour in contributing to elevate her to that exalted ſtation, ſhe holds among the nations of the earth, and which, we ſtill ardently deſire and pray, ſhe may hold, with freſh acceſſions of fame and proſperity, till time ſhall be no more.

THESE being our ſentiments, and, we are fully convinced, the ſentiments of our brethren throughout the colonies, with unſpeakable affliction,

vantages ſhe *actually receives with ſafety* from us, becauſe by the adoption of *Spaniſh* maxims, ſhe *might with danger extort more?*

It is the duty of every coloniſt to oppoſe ſuch maxims. They threaten ruin to our mother country and to us. We ſhould be guilty of treaſon againſt our ſovereign and the majeſty of the people of *England*, if we did not oppoſe them. *England* muſt be ſaved in *America*. Hereafter, ſhe will *rejoice* that we have *reſiſted*—and *thank* us for having *offended* her. Her wiſdom will in a ſhort time diſcover, the artifices that have been uſed by her worſt enemies to enflame her againſt her dutiful children; that ſhe has ſupported not her own cauſe but the cauſe of an adminiſtration; and will clearly diſtinguiſh, which will moſt conduce to her benefit, ſafety, and glory, *well treated* and *affectionate colonies, or millions of ſlaves*, an *unnatural encreaſe of her ſtanding forces*, and an *addition to the influence of the crown, defying all calculation.*

* It has been ſuggeſted, "that ſubjects ſometimes err, by not believing that princes mean as well as they do"—But, the inſtances are numerous where princes and their courtiers err, by not believing, that ſubjects mean as well as they do.

fliction, we find ourſelves obliged to oppoſe that ſyſtem of dominion over us, ariſing from counſels pernicious both to our parent and her children—to ſtrive, if it be poſſible, to cloſe the breaches made in our former concord—and ſtop the ſources of future animoſities.—And may GOD Almighty, who delights in the titles of *juſt* and *merciful*, incline the hearts of all parties to that equitable and benevolent temper, which is neceſſary, ſolidly to eſtabliſh peace and harmony, in the place of confuſion and diſſenſion.

THE legiſlative authority claimed by parliament over theſe colonies conſiſts of two heads---firſt, a general power of internal legiſlation; and ſecondly, a power of regulating our trade: both, ſhe contends are unlimited. Under the firſt, may be included among other powers, thoſe of forbiding us to † worſhip our creator in the manner we think moſt acceptable to him---impoſing taxes on us----collecting them by their own officers-----enforcing the collection by admiralty courts or courts martial----aboliſhing tryals by jury---eſtabliſhing a ſtanding army‡ among us in time

† See *Canada* bill.

‡ The army under the command of general GAGE, in the province of *Maſſachuſetts Bay* alone, amounts to ſeveral thouſand men---kept there *without conſent of their aſſembly*, and to be *augmented* as the *general* ſhall think proper.

I muſt

time of peace, without conſent of our aſſemblies---

'I muſt own ſir, I can ſee but one reaſon for raiſing 'at this preſent juncture, this additional number of troops, 'and that is to ſtrengthen the hands of the miniſter againſt 'the next elections by giving him the power of diſpoſing of 'commiſſion to the *ſons*, brothers, nephews, couſins, and 'friends of ſuch as have intereſt in boroughs into ſome 'of which perhaps, troops may be ſent to procure the 'free election of their members, in imitation of the late 'Czarina ſending her troops into *Poland* to ſecure the free 'election of a king

'But ſtill there is one thing more fatal than all I have 'yet named that *muſt be* the conſequence of ſo great a body 'of troops being kept on foot in *England*, and *will be the 'finiſhing ſtroke to all our liberties*. For as the towns in *England* will not be able much longer to contain quarters for 'them, moſt of thoſe who keep public houſes being near 'ruined by ſoldier's billeted on them; ſo *on pretence of the 'neceſſity of it*, barracks will be built for quartering them, 'which will be as ſo many fortreſſes WITH STRONG GARRISONS IN THEM, erected in all parts of *England*, WHICH 'CAN TEND TO NOTHING, but by degrees to ſubdue and 'enſlave the kingdom.

'But if ever this ſcheme ſhould be attempted, it will be 'incumbent on every *Engliſhman* to endeavour to prevent it 'by *all* methods, and as it would be *the laſt ſtand* that 'could be ever made for our liberties, rather than ſuffer it 'to be put in execution, IT WOULD BE OUR DUTY TO 'DRAW OUR SWORDS, AND NEVER PUT THEM UP, till 'our liberties were ſecured, and the *authors of our intended ſlavery brought to condign puniſhment*.——I hope I 'ſhall be forgiven if during the debates I ſhall take the liberty of ſpeaking again; for *I am determined to fight inch 'by inch*, every propoſition that tends, as I think this does 'to the enſlaving my country."

Lord Viſcount GAGE's Speech in 1739. Parl. Deb. book 11th, p. 383. See *Montiſq.* on ſtanding armies.

blies----paying them with our money----seizing

I our

A minister declared in the house of commons, that he should "always consider it as a part of the constitution that the military should act under the civil authority." But, by order, the commander in chief of the forces has precedence of a governor, in the province under his government. By his majesty's *order*, transmitted in a letter dated the 9th of February 1765, from the secretary of state to the commander in chief, it is declared, "that the orders of the commander in chief, and under him, of the brigadiers-general, commanding in the northern and southern departments, *in all military affairs, shall be* SUPREME, and must be obeyed by the troops, as such, *in all the civil governments* in *America*. That in cases, *where no specifick orders* have been given by the commander in chief, or by the brigadier-general commanding in the district, the civil governor in council, and where no council there subsists, the civil governor, *may, for the benefit of his government*, give orders for the marching of troops, the disposition of them, for making and marching detachments, escorts, and such purely military services within his government, *to the commanding officer* of the troops, *who is to give* proper order *for carrying the same into execution:* PROVIDED they are not *contradictory to*, or *incompatible with*, any order he may have received from the commander in chief, or the brigadier-general OF THE DISTRICT."

In May 1769 the house of representatives for *Massachusets-Bay*, requested governor *Bernard* "to give the necessary and effectual orders for the removal of the *forces by sea and land* out of the *port* of *Boston*, and from the *gate* of the city, DURING THE SESSION OF THE SAID ASSEMBLY;" to which he answered—"Gentlemen, I have NO AUTHORITY over his majesty's *ships in this port* or his *troops within this town, nor can I give* any orders for their removal.

May 31, 1769. *Fra. Bernard.*"

Thus,

our young men § for recruits --changing conſtitutions of government†---ſtopping the preſs---declaring

Thus, our governors, the captains-general and commanders in chief, repreſenting the ſovereign, and known to the conſtitution of theſe colonies, are deprived of their legal authority, IN TIME OF PEACE, *by an order*—and a *perpetual dictatorial power* eſtabliſhed over us. To accompliſh this great purpoſe, it was thought proper during the laſt war, to change the mode of granting military commiſſions, and to paſs that to the general in *America under the great ſeal.* It is not known, whether this uncommon formality has been obſerved with regard to the *major-generals of the reſpective* " DISTRICTS."

§ The *Germans* have been juſtly celebrated in different ages, for ſagacity in promoting the arts, and for martial ſpirit; yet how unhappy have they been made in a ſhort period of time, by that ſingle engine of arbitrary power, a *ſtanding army.* Their diſtreſs was wrought up to ſuch a degree, that thouſands, and tens of thouſands, relinquiſhed their native country, and fled to the wilderneſſes of *America.* It was a way of thinking and acting that became them. For *Germans* may truly be called *the Fathers of Engliſhmen.* From ‡ *Germany* came their anceſtors and the firſt principles of the conſtitution. *Germans* therefore ſeem to be more juſtly entitled than other foreigners to the bleſſings of that conſtitution. To enjoy them, in this free country as it then was, they came here, but now unfortunately find, *arbitrary Government* and *a ſtanding army* purſuing them even into theſe woods. Numbers of them now in theſe provinces, have ſerved in the armies of the ſeveral princes in *Germany* and know well, that one reaſon with their rulers, for putting ſwords into their hands was to cut the throats of their own fathers, brothers and relations who ſhould attempt to relieve themſelves from any part of their miſeries.

† Bill for changing the conſtituting of *Maſſachuſets-Bay.*

‡ 1 Blackſt. p. 147.

declaring any action, even a meeting of teh ſmalleſt number, to conſider of peaceable modes to obtain redreſs of grievances* high treaſon---taking coloniſts to *Great Britain* to be tried ‖---exempting "murderers"† of coloniſts from puniſhment, by carrying them to *England*, to anſwer indictments found in the colonies---§ ſhutting up our ports --prohibiting us from ſlitting ‡ iron to build our houſes,---making ¶ hats to cover our heads, or clothing to cover the reſt of our bodies, &c. ††

IN

miſeries. Their former ſovereigns are now compleating, it is ſaid, the cruel tragedy of tyranny. They will not ſuffer thoſe they have made wretched, to ſeek for a more tolerable exiſtence in ſome other part of the globe. It is their DUTY, ſay theſe unfeeling princes, "to be unhappy, and to renounce all hopes of relief." They are prohibited from leaving their country. Thoſe who have already eſcaped into theſe colonies, remember what they and their parents ſuffered in *Germany*. The old tell the ſtories of their oppreſſions to the younger; and however *improbable* it may appear on the other ſide of the *Atlantic*, it is aſſerted by perſons well acquainted with this people, that they have *very little* inclination TO SUFFER THE SAME CRUELTIES AGAIN in *America*.

* General *Gage*'s proclamation, dated June 2[illegible], 1774.

‖ Reſolves in the houſe of lords on 35th Hen. 8. ch. 2d.

† Bill for the adminiſtration of juſtice, &c.

§ *Boſton* act. ‡ 23d Geo. 2 ch. 29. ¶ 5th Geo. 2 ch. 22

†† If *Great Britain* has a conſtitutional power to prohibit us from ſlitting iron *as ſhe has done*, ſhe has a conſtitutional power, that is, a *right*, to prohibit us from raiſing grain for our food; for the principle that ſupports one law, will

ſupport

In our provincial legiſlatures, the beſt judges in all caſes what ſuits us--- founded on the immutable and unalienable rights of human nature, the principles of the conſtitution, and charters and grants made by the crown at periods, when the power

ſupport the other. What a vaſt demand muſt be made on her for this article, and how firmly would her dominion be eſtabliſhed, if we *depended* wholly on her for our daily bread? Her modern writers conſider coloniſts as ſlaves of *Great Britain* ſhut up in a large workhouſe, conſtantly kept at labour, in procuring ſuch materials as ſhe preſcribes, and wearing ſuch cloathes as ſhe ſends.—Should ſhe ever adopt the meaſure abovementioned, and on our complaints of grievances, withhold food from us—what then? why then, on her principle——it would be *right*—— TO BE STARVED. To ſay in ſuch *caſe* we ſhould have any other *right*, would be a "*traiterous* and *rebellious* denial of the ſupreme legiſlature of *Great Britain*," for ſhe "has power *of right* to bind us by ſtatutes IN ALL CASES WHATSOEVER."

Let not any perſon object that the ſuppoſition of ſuch a caſe is the ſuggeſtion of fancy. The *Carthaginians*, thoſe maſters in the ſublime politics of commerce—politics that have produced ſo many dreadful ſcenes upon earth, forbad the *Sardinians* to raiſe corn, in order to keep them in due ſubjection. The *Eaſt Indies*, *St. Vincents*, the proceedings at *Rhode Iſland*, and the *Boſton* act, &c. give riſe to many alarming apprehenſions in *America*. There are few men on this continent would be as much ſurprized at that meaſure, as at ſome late meaſures. The beginning juſtifies any apprehenſions. Power debauches the affections. The improbability of caſes happening, is no anſwer in ſuch important conſiderations. The laudable ſpirit of commerce may be inflamed into rapacity and cruelty in a nation as well as in an individual. We muſt regard the POWER claimed by

Great

power of making them was univerſally acknowledged by the parent ſtate, a power ſince frequently recognized by her,---ſubject to the controul of the crown as by law eſtabliſhed, is veſted the *excluſive right of internal legi ation.*

SUCH

Great Britain, not ſolely her WILL or CONTINGENCIES DEPENDING ON THAT WILL. If ſhe affixes no limits to her *power* why ſhould we affix *any* to its *effects?* "I know (ſays Mr. *Hoadly*) it is next to impoſſible, that any ſuch caſe ſhould happen: But if ſuch things be ſaid, and ſuch caſes, *in effect*, be put, it is neceſſary to ſpeak, *upon the ſuppoſition of ſuch caſes.*—And me thinks it is but a narrow ſpirited proceeding in us to go juſt no farther *in our notions*, than a compliance with *our own preſent condition forceth us*; to exclude from our regard the condition of *all other n tions, and all caſes*, but juſt that, which hath happened laſt of all in our own."

That the plan of governing us by withholding *neceſſaries of life* has been conſidered, and in what light colonies are viewed at home, the following extracts will partly ſhew."

"It appears that the original and grand evil attending them was, the ſettlement of *ſo conſiderable a part* in a climate incapable of yielding the commodities wanting in *Britain.*

"Theſe northern colonies, long after *their diſadvantageous* nature was known, were continually increaſed by freſh migrations from *Europe*; which, as I before obſerved, ought totally to have been prevented, and ſuch migrations have been encouraged only to the beneficial colonies.

"Since the late war, *Britain* laid the trade of the colonies under ſome very ſtrict regulations, which certainly cut off many inlets by which they formerly received much *Spaniſh* and *Portugueſe* coin. The *principle* upon which ſuch regulations were formed, of ſecuring to the mother country alone *all matters of commerce*, I have already attempted to prove *juſt* and *neceſſary*. "When

Such a right veſted in parliament, would place us exactly in the ſame ſituatian, the people

" When once their ſupernumeraries are become manufacturers, it will require more than *Britiſh* policy to convert them into planters.

" I muſt think this point of ſuch great importance, as to extend probably to the *annihilation of manufactures* in our colonies —To conclude, it is in the propoſed ſettlement on the *Ohio* we muſt *firſt* look for hemp and flax; as ſuch great numbers of the old *American* farmers have removed and ſettled there, which may, in thoſe fertile tracts, be cultivated in ſuch abundance, as to enable us to underſell all the world, as well as ſupply our own conſumption. It is on thoſe high, dry, and healthy lands, that vineyards will be cultivated to the beſt advantage, as many of thoſe hills contain quarries of ſtone, † and not in the unhealthy ſea-coſts of our *preſent* colonies. To theſe we ſhould bring the ſettlers from *Europe*, or at leaſt ſuffer none to go *north* of *New-York*; by which means our numbers would increaſe in thoſe parts, where it is our intereſt they ſhould increaſe; and the report of the ſettlers from the new colony on the *Ohio* would be a conſtant drain of people from our *unprofitable* northern ones, by which means they would, in future times, as well as the preſent, be prevented from extending their manufactures.

" What I ſhall therefore venture to propoſe is, that the government, *through the means of a few merchants* acquainted with the *American* trade, that can be tolerably depended upon, ſhould eſtabliſh *factors* at *Boſton*, *Philadelphia*, *New York*, and a few other ports, for the ſale of ſuch cargoes of *Britiſh* manufactures as ſhould be conſigned to them; and to conſiſt of ſuch particularly as were moſt manufactured in the province, with directions immediately and continually to *underſell* all ſuch colony manufactures. By this means the operation of the ſucceeding meaſures, from the number

ple of *Great-Britain* would have been reduced to, had *James* the firſt and his family ſucceeded in

ber of hands rendered idle, would be ſo much the eaſier to be executed.

" The ſhips which carried out ſuch cargoes ſhould be large bulky ones, of eight, nine hundred, and one thouſand tons burden, for the ſake of bringing large quantities of deals, &c. back, at a leſs propo tionate expence; and, previous to their arrival in *America*, cargoes of theſe ſhould be ready for them. The coloniſts ſhould be engaged to work their iron mines, and get the product ready in bars, &c. and vaſt quantities of deals and ſquared timber ready for loading the ſhips: All which, on the certain and immediate proſpect of a ſale would eaſily be effected; as it is well known they have more than once proved to the legiſlature, that they could ſupply all *Europe* with theſe articles, had they but the *demand*.

" But I laid it down as a rule to proceed upon, that *trade*, *fiſhing*, and *manufacturing*, were put an entire ſtop to among the colonies.

" If the ſugar iſlands contained ten millions of people, AS DESTITUTE OF NECESSARIES as they are at preſent, *Britain* would be as SURE of their allegiance as ſhe is at preſent – provided no power more formidable than herſelf at ſea aroſe for their protection.

" The firſt dependance of our colonies, as well as all their people, is, to change the terms a little, upon corn worked into bread and iron wrought into implements; or, in other words, it is upon *neceſſary* agriculture and *neceſſary* manufactures; for a people who do not poſſeſs theſe, to think of throwing off the yoke of another *who ſupplies them with them*, is an abſurd idea. This is preciſely the caſe with our ſugar iſlands. Let us ſuppoſe the continental colonies to be as happy in the *neceſſary agriculture* as they really are, but to be abſolutely without manufactures, could they throw off their allegiance to *Britain* be their numbers

what

in their ſcheme of arbitrary power. Changing the word *Stuarts* for *parliament*, and *Britons* for *Americans*,

what they would? No, certainly; for that is nothing more than ſuppoſing they ſhould throw off their allegiance to hoes and ſpades, and *coats* and *ſhoes*, which is abſurd to imagine: can any one imagine that a rebellion can be carried on among a people, when the greateſt ſucceſs muſt be attended with the loſs of *half* the *neceſſaries* of life!

"The following, among other effects relative to this point, would be the conſequence of the *plan* ſketched out in the preceding ſection.

"The people would depend on *Britain* for thoſe *neceſſaries of life* which reſult from manufactures.

"The cultivation of *ſtaples* would be more profitable to them than any other employment whatever.

"The *ſale* of thoſe ſtaples would depend on *Britain*.

"The people would all be *ſpread* over an immenſe country as planters;—none of them collected in towns.*

"To which circumſtances I ſhall add, in reſpect to *Britain*'s further policy,

"That ſhe ſhould abide by the boundaries fixed already to the old colonies, that of the rivers heads; and all further ſettling to be in *new colonies*, wherever they were traced.

"That ſhe ſhould keep the inland navigation of the continent, that is, of all the great lakes and navigable rivers, to herſelf, and not ſuffer any *ſets* of men to navigate them,

* "This point, which is of infinite importance, would pretty fully be occaſioned by other parts of the plan. But, to enſure ſo great a point, no new towns ſhould be ſuffered, nor even villages; than which nothing could be eaſier to manage: nor would they be any where neceſſary but by the magazines of naval ſtores for loading ſhips. All poſſible decreaſe of numbers in the cities already in being, ſhould be effected. So ſyſtematically abſurd is it to found towns and cities, as *Britain* has hitherto conſtantly done, in all the colonies ſhe has formed."

Americans, the arguments of the illuſtrious pa-

 triots

them, and thereby communicate from one part of the continent to another.

" That ſhe ſhould never ſuffer any *provincial troops* or *militia* to be raiſed, but reſerve entirely to herſelf the defence of the frontiers. *

" That ſhe ſhould throw whatever obſtacles ſhe could, upon all plans of *communication* from colony to colony, or conveniences of ſpeedy removals from place to place.

" That in proportion as any colony declined in ſtaples and threatened not to be able to produce a ſufficiency of them, the inhabitants ſhould receive ſuch encouragement to leave it, as *more* than to drain its natural increaſe, unleſs new ſtaples were diſcovered for it.

" This is *now* the caſe with thoſe I have diſtinguiſhed by the title of the northern colonies; inſomuch that *Nova-Scotia*, *Canada*, *New-England*, *New York*, *New-Jerſey*, and *Pennſylvania*, would be nearly of as much benefit to this country BURIED IN THE OCEAN as they are at preſent."

Political Eſſays.

The conduct of adminiſtration correſponds exactly with the ſentiments of this modern writer, and with the meaſures purſued by *Philip* the ſecond of *Spain* againſt the *Low Countries*. The reaſons given by one in adminiſtration for attacking the colonies, ſeem to be copied (with ſome ſmall alterations on account of religion) from the famous advice of the unfeeling duke of *Alva*, that " ſpecie retinendæ dignitatis," coſt his maſter, his glory, his happineſs, and his provinces—and ſunk his country into diſtreſſes, from which ſhe is not yet recovered. " At vero dux Albanus ARMA & ULTIONEM, contendebat, *unicum* læſæ auctoritati principis remedium. Quippe ceteris artibus ac diuturna facilitate nihil aliud effectum, quam ut regi obedientia, rebellibus timor adimeretur.

* " Specie tuendi finium, jugum liberis provinciis meditatur."
STRADA, *lib.* 2.

triots of thoſe times, to whoſe virtues their deſcendants

adimeretur. Poſtulaſſe *principio* Belgas, ut Hiſpanus è provincia miles excèderet: id ſcilicet unum deeſſe conſtantes ad quietem populorum. Num propterea, *impetrata externorum miſſione* quieviſſe? An potius & confidentius efflagitaſſe, ut—clavo deturbaretur GRANVELLANUS. At *unius* forte *naufragio* complacatos fuiſſe ventos.—Quin immout *licentia* creſcit facilius—hominés à noſtra facilitate ſecuri—*libellis deridiculis, flagigioſis conſpirationibus*—improbis palam carminibus—minis—*precibus armatis*—extorſerent quod averent—obſtinatis *inverecunde* legationibus Hiſpaniàm FATIGARENT—Hic quoque viſum clementiæ principis aliqua indigna poſcentebus indulgere. Enim vero quid ex illa indulgentia relatum, niſi ut votorum ubique compotes, non parendo; ſubditos ſeſe obliviſcerentur, obſequium dediſcerent, atque exuta principis reverentia, communicata provinciarum defectione, tanquam culpæ ſocietate tutiores, humana omnia contrectatæ ſemel libertati poſt haberent. Nunc vero non *unius civitatis*, ſed *provinciarum conſenſu* peccatum eſſe in regem. Nec quia rebelles in preſentia conquieſcant, minus ferociæ animis ineſſe, reſumpturos utique vires, ubi *metum ultionis* abjecerint. Sic *ille* PRONUS AD ASPERIORA, differebat."

Strada de bello *Belgico*, lib. 6.

It is evident, that the *Britiſh* miniſters have diligently ſtudied *Strada* and the other authors who have tranſmitted to poſterity the pleaſing and inſtructive annals o. *Philippic* policy, as every meaſure they have taken, is founded on a precedent ſet by that celebrated ſchool of humanity.

Alva is the favorite maſter—on his conduct they keep their eyes ſteadily and reverently fixed, and it may truly be ſaid—they follow him with no unequal ſteps. Great, good, and wiſe men! whom ſome future *Puffendorf* or *Temple* will duely celebrate.

" In 1564, GRANVILLE was removed from the council, to appeaſe the people. Their joy was ſhort lived; for as the *ſame* meaſures were purſued, it ſoon began to be ſaid publicly

deſcendants owe every bleſſing they now enjoy,

 apply

publickly, that though his *body* was removed from, *his ſpirit* ſtill influenced the council. Upon application for a relaxation of the edicts, it was ſaid, that *moderation had only made matters worſe*, and the obſervation of them was again enjoined upon *more ſevere penalties* than before.

" At length an ASSOCIATION was entered into, for mutually defending each other. This being ſigned by above 400 perſons of quality, who all proteſted, that they meant nothing but the honor of God, the glory of the king, and the good of their country, they met and PETITIONED, that the *proclamation might be revoked:* but the king would conſent to no mitigation. Good advice was given to him. But the duke *D'Alva's* violent counſel, WHO PROPOSED THE ENTIRE ABOLISHMENT OF THE LIBERTIES OF THE PROVINCES* was moſt pleaſing and followed. The cruel duke was ſent into the *Low Countries* with a powerful army. The counts *D'Egmont* and *Horn*, were immediately ſeized, on a pretence that they had underhand, ſpirited up the people's *diſaffection*. They were afterwards executed. All who had ſigned the ASSOCIATION OR PETITION were declared guilty of ‡ HIGH TREASON, and anſwerable for what had happened. A council called from its cruel proceedings, † THE COUNCIL OF BLOOD, was erected for trying the accuſed, *from which there was no appeal.* (NOTE WELL) *Alva* himſelf tried the accuſed *in their own country*, where their *friends* and *witneſſes* might attend them,—where the pains of death itſelf might be mitigated, by ſeeing with their dying eyes, that they expired beloved and lamented. Here, the diſciples exceed their tutor. This is too great a conſolation to be indulged to a coloniſt. He muſt be carried 3000 miles acroſs the ocean - that he may not only dye, but be inſulted in his laſt moments, with the mockery of a trial where the cleareſt innocence ſtands no chance of acquittal,

* " LAY THEM AT MY FEET." ‡ See Gen. *Gage's* procla.
† Reſolutions in parliament for trying coloniſts in *England*. *Rhode-Iſland* Court. Late acts for *Maſſachuſetts-Bay*.

apply with inexpreſſible force and appoſiteneſs, in

tal, and with the formality of a ſentence founded on a ſtatute paſt before the colonies exiſted. On the approach of the army, the prince of *Orange* and other lords fled; and being ſummoned to appear before the council, in default thereof were condemned, and their eſtates confiſcated. *Alva* treated all, the *innocent* and *guilty* with ſuch rigor, that it gave riſe to the following ſaying of a *Spaniſh* officer—" *Hæretici* fraxerunt templa; *boni* nihil faxerunt contra: ERGO *omnes* debent *patibulari* "

Puffendorf's introduction—Art. " Spain" and " the United Provinces."

Sir *William Temple*'s account of the diſturbances in the *Low Countries* agrees exactly with the foregoing extracted out of *Puffendorf*, by which it will appear with what a ſurprizing exactneſs of reſemblance the affairs of the colonies have been carried on by adminiſtration.

" The war with *France* being concluded, it was reſolved to keep up the troops in theſe provinces, and that the ſtates ſhould ſupport them, which by a long courſe of war was grown cuſtomary." When *Philip* would have put *Spaniſh* garriſons into ſome of their towns; and for the ſake of their admitting them quietly, gave the command to the Prince of *Orange* and Count *Egmont*: they told him plainly, " That all the brave ſtands they had made againſt the power of *France*, availed them but little, if they muſt at laſt be enſlaved by another foreign power. *Puff.* " The hatred of the people, the inſolence of the troops, with the charge of their ſupport, made them looked upon by the inhabitants in general, as the *inſtruments of their oppreſſion and ſlavery, and not of their defence, when a general peace had left them no enemies*: And therefore the ſtates began here their complaints, with a general conſent and paſſion of all the nobles, as well as towns and country. And upon the delays that were contrived or fell in, the ſtates firſt refuſed to raiſe any more monies either for the *Spaniards* pay, or their own ſtanding troops; and the people ran into

ſo

in maintainance of our cauſe, and in refutation of

ſo great *diſpair*, that in *Zealand* they abſolutely gave over the working at their dikes, SUFFERING THE SEA TO GAIN EVERY TIDE UPON THE COUNTRY, and reſolving, as they ſaid, rather to be devoured by that element, than by the *Spaniſh* ſoldiers; ſo that at laſt the king conſented to their removal. Another grievance was the appointment of *new judges*, * and thoſe abſolutely depending on the king, &c."

"GRANVILLE, ſtrained up to the higheſt his maſter's authority and the execution of his commands, while the provinces were reſolute to protect the liberties of their country, againſt the admiſſion of this NEW AND ARBITRARY JUDICATURE, UNKNOWN TO ALL ANTIENT LAWS AND CUSTOMS OF THEIR COUNTRY. The king at laſt conſented to GRANVILLE's receſs. Then all noiſe of *diſcontent* and *tumult* was *appeaſed*. But quickly after the *ſame counſels* were reſumed. The *diſturbances* then grew *greater than before*. But by the prudence and moderation of the dutcheſs of *Parma*, the governeſs, the whole eſtate of the provinces was reſtored to its former peace. This dutcheſs, and the duke of *Feria*, one of the chief miniſters in *Spain*, thought and adviſed, that the THEN PRESENT PEACE OF THE PROVINCES OUGHT NOT TO BE INVADED BY NEW OCCASIONS, nor the royal authority leſſened, by the king being made a party in a war upon his ſubjects. But the king was immoveable; he diſpatched *Alva* into the Low Country at the head of *ten thouſand* veteran *Spaniſh* and *Italian* troops, under the command of the *beſt officers*, which the wars of *Charles* the fifth, or *Philip* the ſecond had bred up in *Europe*; which, with *two thouſand* more in the provinces, under the command of ſo old and renowned a general as the duke of *Alva*, made up a force, which nothing in the *Low Countries* could look in the face with other eyes, than of aſtoniſhment,

* Admiralty courts. *Rhode-Iſland* court, for enforcing the ſtatute of 35 Hen. 8. Act for regulating the government of *Maſſachuſetts-Bay*. Act for adminiſtration of juſtice, &c.

of the pretenſions ſet up by their too forgetful poſterity,

aſtoniſhment, ſubmiſſion or deſpair. This power was for the *aſſiſtance of the governeſs*, the *execution of the laws*, the *ſuppreſſing* and *puniſhing* all who had been *authors* or *fomenters* of the *late diſturbances*. § On his arrival the governeſs having obtained leave of the king, retired out of the province. The duke of *Alva* was inveſted in the government, *with powers never before given to any governor*. A council, called THE COUNCIL OF BLOOD, ‖ was erected for the trial of all crimes committed *againſt the king's authority*. The towns ſtomached the BREACH OF THEIR CHARTERS, the people OF THEIR LIBERTIES, the knights of the golden fleece the CHARTERS OF THEIR ORDER, by theſe NEW AND ODIOUS COURTS OF JUDICATURE; all complain of the DISUSE OF THE STATES, † of the INTRODUCTION OF ARMIES, but all in vain. The king was conſtant to what he had determined. *Alva* was in his nature *cruel* and *inexorable*. The new army was fierce and brave, and deſirous of nothing ſo much as a rebellion in the country. The people were enraged, but awed and unheaded. All was SEIZURE and PROCESS;—CONFISCATION and IMPRISONMENT;—BLOOD and HORROR;—INSOLENCE and DEJECTION;—PUNISHMENTS executed, and meditated REVENGE. The ſmaller branches were lopt off a pace; the great ones were longer a hewing down. Counts *Egmont* and *Horn* laſted ſeveral months; but at length, in ſpite of all their ſervices to *Charles* the fifth, and to *Philip*, as well as of their new merits in quieting of the provinces, and of ſo great ſupplications and interceſſions as were made in their favour, both in *Spain* and *Flanders*, they were publicly beheaded at *Bruſſels*, which ſeemed to break all patience in the people; and by their end to give thoſe commotions a beginning, which coſt *Europe* ſo much blood, and *Spain* a great part of the Low Country provinces. The war begun, *Alva* had *at firſt*

§ See ſpeeches in parliament, and preambles to the late acts.

‖ See note in page 75.

† Frequent Diſſolutions of aſſemblies—and their total uſeleſsneſs, if parliament taxes us.

poſterity, over their unhappy coloniſts. Confiding

firſt great ſucceſs. Moved with no rumors, terrified with no threats from *a broken* and *unarmed* people, and thinking no *meaſures* or *forms* were any more neceſſary to be obſerved in the provinces; he pretends *greater ſums* are neceſſary for the *pay* and *reward* of his *victorious* troops than were ANNUALLY GRANTED UPON THE KING'S REQUEST BY THE STATES OF THE PROVINCES: (*Note.* Here our miniſters have again improved upon *Philip*'s; for they have taxed us, without making requeſts.) § And therefore demands a general tax of the hundredth part of every man's eſtate, to be raiſed *at once*: and *for the future*, the twentieth of all immoveable, and the eighteenth of all that was ſold. The ſtates with much reluctancy conſent to the firſt, as a thing that ended at once. They PETITION the king, BUT WITHOUT REDRESS; draw out the year in conteſts, ſometimes ſtomachful, ſometimes humble with the governor: Till the duke, impatient of delay, cauſes the *edict*, WITHOUT CONSENT OF THE STATES, to be *publiſhed*. The people REFUSE TO PAY; the SOLDIERS begin to LEVY BY FORCE; the TOWNSMEN ALL SHUT UP THEIR SHOPS; the PEOPLE IN THE COUNTRY FORBEAR THE MARKET; ſo as not ſo much as *bread* and *meat* is to be bought in the town. The duke is *enraged*; calls the *ſoldiers to arms*; and commands ſeveral of the inhabitants, WHO REFUSED THE PAYMENTS, to be hanged that very night UPON THEIR SIGN POSTS; which moves not the obſtinacy of the people. AND NOW

§ Another advantage the *Britiſh* miniſters have over the *Spaniſh* in depth of policy, is very remarkable. *Spain* was a great empire. The Low Countries a mere ſpeck, compared with it. *Spain* was not a maritime ſtate that depended upon them for the ſupply of her revenue. Had they been ſunk in the ſea, ſhe would ſcarcely have felt the loſs. Her proſpect of ſucceſs was almoſt certain. *France*, her then inveterate enemy, exhauſted by a civil war, and divided into two powerful parties. Every circumſtance is directly the reverſe to *Great-Britain* in her preſent conteſt with the colonies. "Siquidem veriſſimum eſt, *ignem* tectis injecere, et injecto ſpatium modumque. Statuere, non alii in ejuſdem manu." STRADA, *lib.* 7.

fiding in the undeniable truth of this ſingle poſition, that, " to live by one man's † will, became

NOW THE OFFICERS AND THE GUARDS ARE READY TO BEGIN THE EXECUTIONS, when news comes to town of the taking of the *Briel*, by the *Gueſes*, ¶ and of the expectation that had given of a ſudden revolt in the province of *Holland*.

" This unexpected blow STRUCK the duke of *Alva*, and *foreſeeing the conſequences* of it, becauſe he knew the ſtubble was dry, and now he found the fire was fallen in, he thought it an ill time to make an end of the tragedy in *Brabant*, whilſt a new ſcene was opened in *Holland*; and ſo giving over for the preſent his TAXES and EXECUTIONS, applies his thoughts to the ſuppreſſion of this new enemy that broke in upon him from the ſea. And *now* began that great commotion in the *Low Countries*, which *never ended* but in the loſs of thoſe provinces, when the death of the royal government gave life to a new commonwealth."

Obſervat. upon the UNITED PROVINCES of the *Netherlands* by ſir *William Temple*.

Philip and his junto of cabinet miniſters thought themſelves no doubt very wiſe, and politic as ſo many *Machiavels*. But what ſays, and will ſay mankind as long as the memory of thoſe events is preſerved? That their counſels were deſpicable, their motives deteſtable, and their minds like thoſe deſcribed by the biſhop of *Lerida*, that exactly reſembled the horns of the cows in his country—LITTLE, " HARD, and CROOKED."

† *Hooker*. " For a man to be *tenant at will* of his liberty I can never agree to it. It is a *tenure*, not to be found in all *Littleton*." Speech of Sir *Edward Coke*.

" *Etiam ſi dominus non ſit moleſtus, tamen miſerrimum eſt*, poſſe *ſi* velit." CICERO.

——————" The *free*,
Know no *gentle* tyranny." ROWE.

¶ *Beggars*—They were called ſo in contempt, when they *petitioned*. The people thereupon aſſumed that name, perhaps to keep up the memory of an inſult *occaſioned by their loyalty*.

became the cauſe of all men's miſery," they generouſly ſuffered.---And the worthy biſhop before mentioned, who, for ſtrenuouſly aſſerting the principles of the revolution, received the unuſual honor of being recommended by a HOUSE OF COMMONS to the ſovereign for preferment, has juſtly obſerved, that " *miſery* is the *ſame* whether it comes from the hands of MANY or of ONE."

" IT could not appear *tolerable* to him (meaning Mr. *Hooker* author of the eccleſiaſtical policy) to lodge in the governors of *any ſociety* an UNLIMITED AUTHORITY, to anull and alter the conſtitution of the government, as they ſhould ſee fit, and to leave to the *governed* the privilege *only* of ABSOLUTE SUBJECTION in *all ſuch alterations*; * or to uſe the parliamentary phraſe, " *in all caſes whatſoever*."

[FROM what ſource can *Great-Britain* derive a ſingle reaſon to ſupport her claim to ſuch an enormous power? That it is conſiſtent with the laws of *nature*, no reaſonable man will pretend. That it contradicts the precepts of *chriſtianity*, is evident. For ſhe ſtrives to force upon us, terms, which ſhe would judge to be intolerably ſevere and cruel, if impoſed on herſelf. " *Virtual repreſentation*," is too ridiculous to be regarded. *The neceſſity of a ſupreme ſovereign legiſla-*

* HOADLY's diſc. on government.

ture internally ſuperintending the whole empire, is a notion equally unjuſt and dangerous. "The *pretence* (ſays Mr. juſtice *Blackſtone* ſpeaking of *James* the firſt's reign)" for which *arbitrary* meaſures was no other than the TYRANTS PLEA of the NECESSITY OF UNLIMITED POWERS, in works of *evident utility* to the † public, the ſupreme reaſon above all reaſons, which is the ſalvation of the king's lands and people."

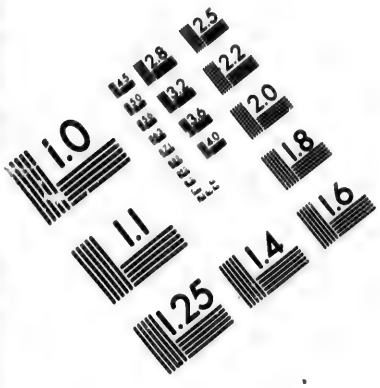
† With ſuch ſmooth words may the moſt dreadful deſigns be gloſſed over. "There are ſome men who call evil, good, and bitter, ſweet.—*Juſtice*, is now called *popularity* and *Faction*." Parl. hiſt. 8. 193.

"A man ſhall not unprofitably ſpend his contemplation, that upon this occaſion conſiders the method of GOD's juſtice (a method terribly remarkable in many paſſages, and upon many perſons, which we ſhall be compelled to remember in this diſcourſe) that the ſame principles, and the ſame application of thoſe principles ſhould be uſed to the wreſting all ſovereign power from the crown, which the crown had a little before made uſe of for the extending its authority, and power, *beyond it's bounds, to the prejudice of the juſt rights of the ſubject*. A SUPPOSED NECESSITY was then thought GROUND ENOUGH to create a power, and A BARE AVERMENT OF THAT NECESSITY to beget a practice *to impoſe what tax* THEY THOUGHT CONVENIENT upon the ſubject, by writs of *ſhip-money* never before known, and a ſuppoſed neceſſity now, and a bare averment of that neceſſity, is as confidently, and more fatally, concluded a good ground to exclude the crown from the uſe of any power, by an ordinance never before heard of, and the ſame maxim of "ſalus populi ſuprema lex," which had been uſed to the infringing the liberty of the one, made uſe of for deſtroying the rights of the other."

Lord *Clarendon*'s hiſt. b. 5, p. 54.

people." This was not the doctrine of *James* only. His ſon unhappily inherited it from him. On this flimſy foundation was built the claim of *ſhip money* &c. Nor were there wanting men, who could argue, from the courtly text, that parliaments were too ſtupid or too factious to grant money to the crown, when it was their intereſt and their duty to do ſo. This argument however, was *fully* refuted, and ſlept above a century in proper contempt, till the poſterity of thoſe, who had overthrown it, thought fit to revive the exploded abſurdity. Trifling as the pretence was, yet it might much more properly be urged in favour of a *ſingle perſon*, than of a *multitude*. The counſels of a monarch may be more ſecret. His meaſures more quick. In paſſing an act of parliament for all the colonies, as many men are conſulted, if not more, than need be conſulted, in obtaining the aſſent of every legiſlature on the continent. If it is a good argument for parliament, it is a better againſt them. It therefore proves nothing but its own futility. The *ſuppoſed advantages* of ſuch a power, could never be attained but by the deſtruction of † *real benefits*,

† Thus the patriots of *Charles*'s days argued—"It is not, that *ſhip-money* hath been levied upon us, but it is, that thereby ſhip-money is claimed, which is the gift and EARNEST PENNY OF ALL WE HAVE: it is not, that our perſons have been impriſoned, for the payment of ſhip-money, but that our PERSONS and LIVES are, upon the *ſame ground of law*, delivered up to *will and pleaſure*. It is, that our BIRHTRIGHT



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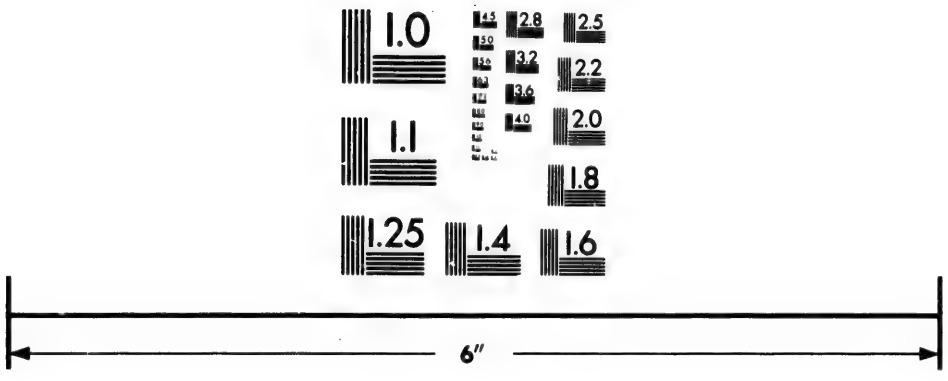

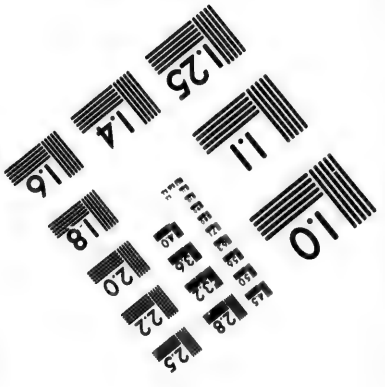

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fits, evidenced by facts to exiſt without it. The *Swiſs Cantons*, and the *United Provinces*, are combinations of independant ſtates. The voice of each muſt be given. The inſtance of theſe colonies may be added: For ſtating the caſe, that no act of internal legiſlation over them had ever been paſt by *Great-Britain*, her wiſeſt ſtateſmen would be perplexed to ſhew, that ſhe or the colonies would have been leſs flouriſhing than they now are. What benefits ſuch a power may produce hereafter, time will diſcover. But the *colonies are not dependant on Great-Britain*, it is ſaid, if ſhe has not a ſupreme unlimited legiſlature over them. "I would aſk theſe *loyal* ſubjects of the king (ſays the author of a celebrated invective againſt us) ‡ what king it is, they *profeſs* themſelves to be loyal ſubjects of? It cannot be his preſent moſt gracious majeſty, *George* the third, king of *Great-Britain*, for his title is founded on *an act of parliament*, and they will not ſurely acknowledge that parliament can give them a king, which is of all *others*, the higheſt act of ſovereignty, when they deny it to have power to tax

or

BIRTHRIGHT is deſtroyed, and that there hath been an endeavour to reduce us to a *lower ſtate than villainage*. The lord might tax his *villain* de haut et de baſſe, might impriſon him, but——his LIFE was *his own*; THE LAW SECURED HIM THAT." Lord *Clarendon*.

‡ See note on theſe words—"Therefore a power of regulating our trade, involves not in it the idea of a ſupreme legiſlature over us." pa. 124

or bind them in any other caſe; and I do not *recollect*, that there is any act of aſſembly, in any of the colonies for ſettling the crown upon king *William* or the illuſtrious houſe of *Hanover* *." " Curious reaſoning this." § It is to be wiſhed the gentleman had " *recollected*" that without any ſuch " act of aſſembly" none of the coloniſts ever rebelled. What *act of parliament* is here meant? Surely not the 11th of *Henry* the ſeventh, chapter the 1ſt in favour

* " The *controverſy* between *Great-Britain* and her colonies reviewed." The learned gentleman who wrote this piece, has thought proper to quit his argument, ſtep out of his way, perſonally abuſe and ſeverely attack the writer of the " Farmer's Letters." His principal objections are the following, and the anſwers here given may perhaps be ſufficient to ſhew with what force his objections are generally urged. 1ſt. He ſays, " the writer of the letters, tells us, that the drawbacks which are allowed on ſome articles upon their exportation from *England* amount to more money than all the duties together which are laid upon them on their arrival in the colonies will produce. I believe it is the firſt time that the colonies of any ſtate have complained of the injuſtice of the mother country in laying taxes upon them, which were not *ſufficiently heavy*, nor was it ever before diſcovered that the proper means to redreſs the grievances of any people, were to *increaſe their taxes*" Page 16. *Anſwer.* The truth of the aſſertion in the letters is not denied. It is aſſumed, by the author of the " controverſy," as the foundation of his argument. If then, parliament would have raiſed *more* money, " *by ſtopping* the drawbacks, than by laying the duties to be paid *in* the colonies," *why* were they laid? From reſpect for parliament it muſt be ſuppoſed, they were laid for *ſome* purpoſe. It was not for the ſake of the money,

§ Id. p. 17.

favour of a king *de facto*. Probably the 12th and 13th of *William* the 3d chapter the 2d "for the further limitation of the crown &c." is intended. And, is it imagined that the words "dominions and territories thereunto belonging"

money. For what then? To eſtabliſh a PRECEDENT for *taxing* the colonies, ſays the writer of the letters. The author of the controverſy does not deny it; but enters into a diſſertation upon the *more* and the *leſs*, which is not the point in queſtion. 2dly. The writer of the letters ſays, that "an *act of parliament* commanding us to to do a certain thing, if it has any validity, is a *tax* upon us, for the *expence* ‖ that accrues in complying with it." In reply to this, the author of "the controverſy" enumerates many inſtances of ſovereignty *ſubjecting the colonies to expence*, which he ſuppoſes may be legally exerciſed WITHIN the colonies "BY ACT OF PARLIAMENT". Pages 23, 24. *Anſwer*. The propriety of this ſuppoſition is denied, and remains to be proved. "Abſurdities and contradictions" are plentifully attributed to the writer of the letters, becauſe he will not acknowledge, that the power of parliament "to regulate trade, and preſerve the connection of the whole empire in due order," involves in it a power to "*tax* the colonies," or "to put them to *any expence*," parliament *ſhall pleaſe*. A perſon of ſuch ſagacity, as the author of the controverſy, might plainly have perceived, if his reſentment had not prejudiced his candor, that the writer of the letters, was unwilling to give up any point, which he *then* thought eſſential to the freedom and welfare of his country, and at the

‖ This ſentence related to the diſſolution of the aſſembly of *New-York*, for not complying with the act of parliament for not ſupplying the troops. Laſt ſeſſion of parliament an act was paſſed for the more *commodious* quartering of the troops in *America*. It is not yet come over; but deſerves the attention of the coloniſts, even if it has not the remarkable features, that diſtinguiſh the productions of the laſt ſeſſion.

belonging" in that ſtatute, form his majeſty's title to the ſovereignty of theſe colonies? The omiſſion of them might have looked odd; but what force is added by their inſertion? The ſettlement

the ſame time was § unwilling to propoſe any new ſubject of diſpute. Juſtly has the author of the controverſy obſerved—that "it would be endleſs to trace this doctrine of TAXES THROUGH ALL THE CONSEQUENCES." pa. 23. 3dly. The writer of the letters ſays, "we are as much dependant on *Great-Britain*, as a perfectly free people can be on another." On this the author of the controverſy kindly obſerves, that—"it is a pity the learned editor (the *Engliſh* editor, it is ſuppoſed) has not given the public a diſſertation

§ "If any perſon ſhall imagine that he diſcovers, in theſe letters, the leaſt diſlike of the dependence of theſe colonies on *Great-Britain*, I beg that ſuch perſon will not form any judgment on *particular expreſſions*, but will conſider the *tenor of all the letters taken together*. In that caſe, I flatter myſelf, that every unprejudiced reader will be *convinced*, that the true intereſts of *Great-Britain* are as dear to me, as they ought to be to every good ſubject.

"If I am an *enthuſiaſt* in any thing, it is in my zeal for the *perpetual dependence* of theſe colonies on their mother country.—A dependence founded on *mutual benefits*, the continuance of which can be ſecured only by *mutual affections*. Therefore it is, that with extreme apprehenſion I view the ſmalleſt ſeeds of diſcontent, which are unwarily ſcattered abroad. *Fifty* or *ſixty* years will make aſtoniſhing alterations in theſe colonies; and this conſideration ſhould render it the buſineſs of *Great-Britain* more and more to cultivate our good diſpoſitions towards her: But the misfortune is, that thoſe *great men*, who are wreſtling for power at home, think themſelves very ſlightly intereſted in the proſperity of their country *fifty* or *ſixty* years hence, but are deeply concerned in blowing up a popular clamour for ſuppoſed *immediate advantages*.

"For my part, I regard *Great-Britain* as a bulwark, happily fixed between theſe colonies and the powerful nations of *Europe*. That kingdom remaining ſafe, we, under its protection, enjoying peace, may diffuſe the bleſſings of religion, ſcience, and liberty, through remote wilderneſſes. It is therefore inconteſtably our *duty*, and our *intereſt*, to ſupport the ſtrength of *Great-Britain*. When confiding in that ſtrength, ſhe begins to forget from whence it aroſe, it will be an eaſy thing to ſhew the ſource. She may readily be reminded of the loud alarm ſpread among her merchants and tradeſmen

tlement of the crown of *England* includes the ſettlement of the ſovereignty of the colonies. King *William* is mentioned—and will the gentleman venture to ſay, that *William* was not king

tation on that moſt ingenious and inſtructive paſſage." pa. 25. *Anſwer.* *American* underſtandings diſcover no inconſiſtency in the idea of "a ſtate being dependant, and yet perfectly free," and their temper is ſo moderate that they would be content with that degree of freedom, which is compatible with a dependance. If the propoſition puzzles *Britiſh* underſtandings, it is preſumed to be, becauſe *Britons* will not give themſelves the trouble to think of any dependance, but of *ſuch*, as is deſtructive of *all* freedom; though they themſelves are dependant in ſome meaſure on others. 4ly. The writer of the letters ſays—"if money be raiſed upon us by *others* without our conſent, for our defence, thoſe who are the judges in levying it, muſt alſo be the

tradeſmen, by the univerſal aſſociation of theſe colonies, at the time of the *ſtamp-act*, not to import any of her MANUFACTURES.

"In the year 1718, the *Ruſſians* and *Swedes* entered into an agreement, not to ſuffer *Great-Britain* to export any NAVAL STORES from their dominions but in *Ruſſian* or *Swediſh* ſhips, and at their own prices. *Great-Britain* was diſtreſſed. *Pitch* and *tar* roſe to *three pounds* a barrel. At length ſhe thought of getting theſe articles from the colonies; and the attempt ſucceeding, they fell down to *fifteen ſhillings*. In the year 1756, *Great-Britain* was threatened with an invaſion. An eaſterly wind blowing for ſix weeks, ſhe could not MAN her fleet, and the whole nation was thrown into the utmoſt conſternation. The wind changed. The *American* ſhips arrived. The fleet ſailed in ten or fifteen days. There are ſome other reflections on this ſubject, worthy of the moſt deliberate attention of the *Britiſh* parliament; but they are of SUCH A NATURE, that I do not chuſe to mention them publicly. I thought it my duty, in the year 1765, while the *ſtamp-act* was in ſuſpenſe, to write my ſentiments to a gentleman of great influence at home, who afterwards diſtinguiſhed himſelf, by eſpouſing our cauſe, in the debates concerning the repeal of that act." FARMER'S LETTER, xii. p. 100.

If the author of "the controverſy" had ſeen the letter above referred to, he would have found, that, the difference between the PREROGATIVE in *Great-Britain* and in *America*, and the exerciſe of INTERNAL LEGISLATION by parliament over the colonies, with ſome other points therein mentioned, were repreſented in the ſtrongeſt terms the writer of the letters could uſe, as unjuſt,

and

king of *England* and ſovereign of theſe colonies, before his title was "declared" or "recognized" by "an act of parliament?" The gentleman ſlurs over this caſe. His zeal for the

"illuſtrious

the judges in applying it. [OF CONSEQUENCE, the money, *ſaid* to be taken from us for our defence, *may be employed*, to our *injury*. We may be * chained in by a line of fortifications—obliged to pay for the building and maintaining them—and be told that they are for our defence] With what face can we diſpute the fact after having granted that thoſe who *apply* the money, had a right to *levy it?* For ſurely it is much eaſier for their wiſdom to underſtand how to apply it in the beſt manner than how to levy it in the beſt manner. Beſides the right of levying is of infinitely more conſequence than *that of applying*. The people of *England*, who would burſt out into fury if the crown ſhould attempt to *levy* money by its own authority, have always aſſigned to the crown the *application* of money."

From theſe words relating to "application" the author of "the controverſy" deduces a "proof," that the writer of the letters is very deficient in "his knowledge of the conſtitution"

and certainly tending in a few years to produce the deepeſt diſcontents. The time is at length come, when ſilence in *America* on theſe ſubjects would be ſtupid or criminal.

* The *probability* of this meaſure taking place, is confirmed by the CANADA bill, a political device ſo extraordinary, as to excite ſurprize even in thoſe coloniſts who live in the year 1774. By this bill, it is ſaid, the *legiſlative* power is lodged in the governor and a few men, not leſs than 17 nor more than 23, appointed and removeable by the crown; and the government becomes wholly military.——*Trials by jury* are aboliſhed, though multitudes of *Engliſh* ſubjects ſettled there on the encouragement given by the king's proclamation in 1763——The *French* laws are *reſtored*, and ALL THE COUNTRY ON THE BACK OF THESE COLONIES is added to *Canada*, and PUT UNDER THE SAME MILITARY GOVERNMENT. This is indeed to be "*chained in.*" Nothing is wanting to complete the plan, but our money, to defray the expence of erecting *ſtrong holds* among our woods and *mountains*, and to bribe our *Indians;* and then the expreſſion of "*beating our ſwords into plough-ſhares* will be reverſed in an extraordinary manner; for "our plough-ſhares" will furniſh the very "ſwords" that are to cut our own throats.

" illuſtrious houſe of *Hanover*" would be little gratified, by infering, that becauſe the two houſes

tion"‡ &c *Anſwer.* Is this treatment generous? In ſuch queſtions ought the attack to be turned from the *cauſe* to the *man?* The writer of the letters, pretends not to be diſtinguiſhed, as a " critic on government" nor for " juſtneſs or elegance of compoſition." ‖ Surely, even the author of " the controverſy" muſt now be convinced of his averſion, to writing, as that performance, with all " the juſtneſs and elegance of its compoſition, knowledge of the ſubject handled, & conſtitutional learning diſplayed in it," and employed to pull to pieces the reputation of the writer of the letters, has not rouzed him during ſo many years ſince its publication, to make a ſingle effort in vindication of his character. Was it imagined, that every objection was juſt, becauſe not replied to? Many reaſons, beſides a fear of encountering objections, may prevent an anſwer. In truth, he cannot be called a *volunteer* author.—He *never* DID, and *never* DARED to write, but *when* the honour or intereſt of his country was aſſaulted—when *duty* compelled every one to contribute what aſſiſtance he could in her defence—and when he hoped, the cauſe would draw ſome kind of a veil over his defects. He expected, he might eſcape as the *Spartan* youth did, with ſome ſlight cenſure for engaging *improperly armed,* but that his *motive* would excuſe him from a ſevere one. How well founded the preſent reproach is, will now be conſidered. One would imagine, that a man of common ſenſe on reading the foregoing extract from the letters, would underſtand the writer plainly to mean by " *levying,*" the power of " *taxing*"—and by " *applying,*" the power of " *employing*" the money raiſed by taxing; or in other terms, the *actual expenditure* of it. This meaning is evident—the concluſion being *expreſs,* that " if *others* may be judges in *applying* money, OF CONSEQUENCE it *may be employed* to our injury"—and then follow ſome *inſtances,* in which it " may be *ſo* employed." All this is very clear. How then does the

‡ Page 25. ‖ Pages 22 and 25.

houſes with the conſent of the nation, made a king, *therefore* the two houſes can make

 laws.

the very ingenious gentleman open his way to the writer of the letters, to give him this violent blow? By a dexterity worthy of imitation—*if juſtifiable.* He *leaves out* of his quotation, *all the words* incloſed within the laſt crotchet, beginning at the words "OF CONSEQUENCE" and ending at the words "our defence," *that ſhewed* beyond a poſſibility of doubt *in what ſenſe* the word "*applying*" was uſed—*takes no notice* of the omiſſion—impoſes *another* ſenſe on the word—and then inſults, may it be ſaid, over the ſuppoſed miſtake of ſaying, "that the people of *England* have always aſſigned to the crown the *application* of money."

What ſenſe *he* or *others* may aſſign to the word "application" is not the point: but whether the word, *taken in that ſenſe* which the writer of the letters *expreſsly* annexed to it, is uſed *with propriety* by him, or whether it is uſed *in ſuch a manner*, as to "prove he is very deficient in his knowledge of the conſtitution?" By *that* word, as he defines it, poſitively as language can declare any meaning, he intends, *the actual expenditure and* "*employment*" of money—And is the reader to be tricked out of *that definition*, and *another ſenſe* ſhuffled in, merely to impeach a mans character by ſlight of pen?

HAS not the conſtitution "aſſigned to the crown the *actual expenditure and employment* of money?" Is not this power part of the *executive?* Does not Mr. juſtice *Blackſtone* mention this power to ſhew the vaſt influence of the crown?—He particularly takes notice of it with reſpect to the army—in theſe expreſſions—"*paid* indeed ultimately by the people, but *immediately* by the crown; raiſed by the crown; officered by the crown; commanded by the crown."*

Is not the word "application" uſed here too, not only properly, *as defined*, but properly, *in a conſtitutional ſenſe?*

True it is, that the word is ſometimes uſed as ſynonimous with *appropriation*, though this latter ſeems to be the fitteſt word

* 1 Blackſtone 330.

laws. Yet that concluſion would be as juſtifiable as *this*—that the aſſent of the colonies to an election

word to mean the *deſignation* of money to particular purpoſes in acts of parliament. Could it be poſſible, that the author of "the controverſy" ſhould imagine, the writer of the letters could be ignorant of ſuch deſignation or appropriation of money by parliament, when one can ſcarcely open a book of ſtatutes, without obſerving them? Parliament may accommodate grants of money to public neceſſities—and may call officers of the crown to account for money, but theſe powers no more prove the *actual expenditure and employment* of money to belong to parliament, than the power of calling officers of the crown to account for injurious leagues, or declarations of war, proves the power of parliament to make leagues or to declare war. Beſides, it being contended againſt the colonies, that the "*ſovereign power*" is lodged in king, lords, and commons, the ſame perſons may *tax* and *expend*, to what exceſs and in what manner THEY PLEASE, while the colonies will have NO KIND OF CONTROUL over them: And, that ſuch an *union* of thoſe powers, is unconſtitutional and dangerous to the colonies in extreme, was the point the writer of the letter inoffenſively ventured to aſſiſt on.

Exactly in the ſenſe here contended for, are the words "appropriation" and "application" uſed in ſome of the beſt authorities. Biſhop *Ellys* in his tracts on liberty, page 31, ſays—"The parliament, at preſent, in granting money does for the moſt part *appropriate* it to particular ſervices, whereby the *application* of it is more effectually ſecured." "When any aids are given, the commons only do judge of the neceſſities of the crown, which cannot be otherwiſe made manifeſt to them, than *by inquiring*, how the money which hath been granted, and revenue of the crown, is *expended and applied*."* "Out of the aids given by parliament, (which by the law of *England* are *appropriated*

* Words of the *commons* at a conference with the lords. *Parl. hiſt.*

tion of a king by the two houſes, or to the limitation of the crown by act of parliament, proves a right in parliament to bind the colonies by ſtatutes " in all caſes whatſoever." In ſuch great points, the conduct of a people is influenced *ſolely* by a regard for their freedom and hap-

ated, and *ought to have been employed* in the common profit of the whole realm) *many large ſums of money*, during the times of ſuch heavy taxes upon the people, *have been diverted* under the head of *ſecret ſervices*, and for *ſalaries*, *bounties* and *penſions* &c."*

Some other unfairneſſes there are in this famous piece, that need only be viewed, to be refuted; but of which, it may be ſaid, if a " precedent" eſtabliſhed by the reſpectable gentleman himſelf, can procure pardon for the expreſſion, that " they are not entitled to notice." How could he venture to aſſert as he does, that—" the *purpoſe* of the letters was to excite reſentment in the colonies againſt their parent country and to puſh them on to a ſeparation from her." The letters prove the contrary. Few men have expreſt a warmer zeal for the connexion, than the writer of them! Yet his reputation is to be attacked on every account, and a charge even of *diſloyalty* directly levelled againſt him. The author is welcome to take what other licenſes he pleaſes in his reprehenſions of the writer; but he ought not to have denied his integrity. Their *intentions* muſt ſtand the teſt of a tribunal, that decides for eternity. May they then appear equally pure.

True indeed are thoſe words of lord *Clarendon*.-- " Let no honeſt man that is once entered into the liſts, think, he can by any ſkill or comportment, prevent theſe conflicts and aſſaults—but let him look upon it as a purgatory he is *unavoidably* to paſs through; and conſtantly performing the duties of *juſtice*, *integrity* and *uprightneſs*, depend upon PROVIDENCE, and time, for a vindication."

* Addreſs of the houſe of *commons* to queen *Anne*. *Parl. hiſt.*

happineſs. The colonies have no other head than the king of *England*. The perſon who by the laws of that realm, is king of that realm, is our king.

A DEPENDANCE * on the crown and PARLIAMENT of *Great-Britain*, is a novelty--a dreadful novelty. It may be compared to the engine invented by the *Greeks* for the deſtruction of *Troy*†. It is full of armed enemies, and the walls of the conſtitution muſt be thrown down, before it can be introduced among us.

WHEN it is conſidered that the king as king of *England* has a power in *making* laws---the power of *executing* them---of *finally* determining on *appeals*---of calling upon us for *ſupplies* in times

* This word "dependance" as applied to the ſtates connected with *England*, ſeems to be a new one. It appears to have been introduced into the language of the law, by the common wealth act of 1650. A "dependance on parliament" is ſtill more modern. A people cannot be too cautious in guarding againſt ſuch innovations. "The credentials of the imperial ambaſſadors to the ſtates of *Holland*, were directed--"TO OUR FAITHFUL AND BELOVED." The words ſeem to be very kind; but the cautious ſtates diſcovered that this was the ſtile of the imperial chancery in writing to the *vaſſals of the empire*. The queſtion was, whether the credentials ſhould be opened? and it was urged, that a ſolemn embaſſy ought not to be diſappointed, for a few trifling words. But the ſtates reſolved to ſend them back unopened, which they did. Other credentials were then ſent, with a proper direction; and the ambaſſadors were well received." Arcana imp. det. p. 196.

† 7 Co. 18.

times of war or any emergency---that every branch of the *prerogative* binds us, as the ſubjects are bound thereby in *England*---and that all our intercourſe with *foreigners* is regulated by parliament.----Coloniſts may " ſurely" be acknowledged to ſpeak with truth, and preciſſion, in anſwer to the " elegantly" expreſt queſtion---" What king *it* is" &c. by ſaying that " his moſt gracious majeſty *George* the third" *is* the king of *England*, and therefore, " *the king*" they---profeſs themſelves to be *loyal ſubjects of?*"

We are aware of the objection, that, " if the king of *England* is therefore king of the colonies, they are ſubject to the general legiſlative authority of that kingdom." The premiſes by no means warrant this concluſion. It is built on a mere ſuppoſition, that, the colonies are thereby acknowledged to be *within the realm*, and on an incantation expected to be wrought by ſome magic force in thoſe woods. To be ſubordinately connected with *England*, the colonies *have contracted*. To be ſubject to the general legiſlative authority of that kingdom, they *never contracted*. Such a power as may be neceſſary to *preſerve this connection* ſhe has. The authority of the *ſovereign*, and the authority of controuling our intercourſe with *foreign nations* form that power. *Such a power* leaves the colonies free.

But

But a general legiſlative power, is not a power to preſerve that connection, but to diſtreſs and enſlave them. If the firſt power cannot ſubſiſt, without the laſt, ſhe has no right even to the firſt, ---the colonies were deceived in their contract--- and the power muſt be unjuſt and illegal; for God has given to them *a better right* to preſerve their liberty, than to her to deſtroy it. In other words, ſuppoſing, king, lords and commons acting in parliament, conſtitute a *ſovereignty* over the colonies, is that ſovereignty conſtitutionally *abſolute* or *limited?* That ſtates without freedom, ſhould *by principle* grow out of a free ſtate, is as impoſſible, as that ſparrows, ſhould be produced from the eggs of an eagle. The ſovereignty over the colonies, muſt be * *limited.* *Heſiod* long ſince ſaid, " half is *better* than the whole;" and the ſaying never was more juſtly applicable, than on the preſent occaſion. Had the unhappy *Charles* remembered and regarded it, his private virtues might long have adorned a throne, from which his public meaſures precipitated him in blood. To argue on this ſubject from other inſtances of parliamentary power, is ſhifting the ground

* " *Nec* REGIBUS *infinita aut libera poteſtas,* was the conſtitution of our *German* anceſtors on the continent, and this is not only conſonant to the PRINCIPLES of NATURE, of LIBERTY, of REASON, and of SOCIETY, but has always been eſteemed an expreſs part of the COMMON LAW of *England,* even when *prerogative was at the higheſt.*" 1 Blackſt. 233.

ground. The connexion of the colonies with *England*, is a point of an unprecedented and delicate nature. It can be compared to no other caſe; and to receive a juſt determination, it muſt be conſidered with reference to its own peculiar circumſtances. † The common law ex-

N tends

† The learned Judge, [in Vol. 1. pag. 107.] ſays this country was not "*uninhabited* when diſcovered and planted by the Engliſh, &c. but *ought to be conſidered* as a *conquered, ceded*, or *infidel* country. Our *American* plantations are *principally* of this latter ſort, being obtained in the laſt century, either by right of *conqueſt* and *driving out* the natives (with what natural juſtice, I ſhall not at preſent inquire) or by *treaties*: and therefore the common law of *England*, as ſuch, has no allowance or authority there, they being *no part* of the mother country, but diſtinct (though dependent) dominions. They are ſubject however to the controul of the parliament."

According to this doctrine, the *coloniſts* are conſidered *in a legal view* by the parent ſtate, "as *infidels* or *conquered people*," not as her children with her conſent eſtabliſhing ſocieties for her benefit. Though not a ſingle man of the "infidels or conquered" people, ſhould now be found to reſide in each colony; yet a political contagion is communicated to *Engliſhmen in ſecula ſeculorum*, becauſe *Indians* once fiſhed in the rivers, and hunted in the woods. If *this* be their "*condition*," then according to the law laid down by the judge, "they are ſubject not only to the controul of *parliament*," but the "*King* may *alter* and *impoſe* what laws *he pleaſes*." ¶

It is not known, what the learned Judge means by the word "*principally*." Perhaps he alludes to the ill directed *humanity* and *juſtice* of the firſt ſettlers of ſome colonies, who purchaſed the lands from the natives, for valuable and

ſatisfactory

¶ 1 Blac. Reſt. 107. and the caſes there cited.

tends to colonies; yet Mr. juſtice *Blackſtone* ſays, " ſuch parts of the law as are neither *neceſſary* ſatisfactory conſiderations. It was a very uſeleleſs exerciſe of their virtues, for their poſterity. If they had *by accident* ſettled an " *uninhabited*" country, the invaluable rights of the common law would have *attended* them; but when they *dared* to obtain a ſettlement by *humanity* and *juſtice*, they *forfeited* all rights of the common law, to the lateſt ſucceeding ages. *Can this be law?* Every caſe quoted by the Judge, it is humbly apprehended, makes a diſtinction between ſtates or ſocieties compoſed of *Engliſh ſubjects*, and thoſe compoſed of " *conquered*" people, &c. and that *this* is, the only diſtinction warrantable by thoſe caſes. That the *conquerors* ſhould be conſidered AS the *conquered*, the *expellers of the natives* AS the *expelled natives*, and the *chriſtian poſſeſſors and owners by fair purchaſes from thoſe who had a right to ſell*, AS at the *infidels no longer poſſeſſing or owning*, ſeems to involve a confuſion of ideas, little agreeing with the ſtrength of reaſon that informs the common law.

It is very remarkable, how our ableſt antagoniſts are perplexed in framing their arguments againſt us. Even the learned judge does not expreſs himſelf with his uſual perſpicuity: But the want of it is well atoned, if we, coloniſts, can be thereby deprived of the benefits of the *common law*, and be abſolutely ſubjected to the *king*; for *theſe* courtly tenets are the *only* conſequences deducible from the curious *argument* that tends to involve *theſe colonies* in the misfortunes of " *conquered*, *ceded*, or *infidel* countries." The " controul of parliament," is aſſerted to be ſupreme, in every caſe. Whether the colonies were ſettled in " uninhabited countries," or in " conquered, ceded, or infidel countries," makes no difference as to *that* point.

Another learned gentleman has diſcovered, that we " are not entitled to as great a degree of freedom as *Ireland*." Why? " Becauſe *Ireland* was a *conquered* country." This remark does not ſeem to remove the difficulty. Let us hear the point a little more explained, " *Ireland* it is true was *conquered*

ry nor *convenient* for them, as the juriſdiction of the ſpiritual courts, &c. are therefore not in

N 2 force."

conquered, but certain *conceſſions* were made to the people. Theſe were the terms granted them, but *England* is obliged to keep no terms with the coloniſts." At every ſtep theſe gentlemen take, thoſe writers, who have contributed ſo much to the glory of their country, turn upon them, and directly oppoſe them. They at firſt ſhrink before theſe venerable advocates for liberty and humanity—but recollecting themſelves, they diſtinguiſh and refine, in order to take away the ſubſtance of every argument, and to whittle down a *Hooker* and a *Locke* into a *Leſtrange* and a *Filmer*. After taking theſe liberties, they at length grow bold enough to arraign the authority of any man, even Mr. *Locke* himſelf, if his writings cannot, by all this art, be turned to their purpoſe.

We need not be ſurpriſed after this, that every coloniſt, who ventures honeſtly, to aſſert, as well as he can, the cauſe of his native land, ſhould be treated with little reſpect. The colonies have always been on the *defenſive*. IT IS HOPED THEY WILL ALWAYS CONTINUE SO. But the author of "the controverſy" charges them with great cunning, a left handed wiſdom, that muſt diſgrace any people—becauſe they have not reſiſted, in places where they were not immediately attacked. "It is the *artifice* of the managers, on the part of the colonies, to avoid *general* queſtions, and to keep back and conceal conſequences, leaſt the unſuſpecting people of *England* ſhould too ſoon catch the alarm, and reſolve to withſtand their firſt attempts at independency."‖ That is—they have acted juſt as the "unſuſpecting people of *England*" have done in their controverſies with the crown. *They* confined themſelves from time to time, to a demand of redreſs, for the injuries offered them. This behaviour of the coloniſts, would, by ſome perſons, be deemed modeſt and reſpectful. Now indeed the conduct of adminiſtration demonſtrates

to

‖ Pa. 15.

force." If even the COMMON LAW, in force within the realm of *England* when the coloniſts quitted it, is thus abridged by the peculiar circumſtances of colonies, at leaſt equally juſt, and conſtitutional is it, that the POWER OF MAKING NEW LAWS within the realm of *England*, ſhould be abridged with reſpect to colonies, by thoſe peculiar circumſtances. ‡ THE

to us, that we muſt enlarge our views, and endeavour to take a proſpect of all the miſchiefs neceſſarily attending a claim of boundleſs power with an unbounded inclination to exerciſe it. The gentleman may perhaps call for fire and faggots to extirpate our political hereſy; but we truſt, and truſt *firmly*, that, the ſenſe and generoſity of the good people of *England*, will diſcover and defeat the preſent plan againſt *their* liberties, as they have already ſo many other ſchemes of that tendency—that they will behold their dutiful children with compaſſionate love, and with juſt indignation thoſe unrelenting enemies, from whom *they* can expect no other favor, but that *England* "ſhall be the laſt they will devour."

‡ The author of the controverſy, in page 31 of his work, argues thus concerning the legiſlative power of *Great Britain* over the colonies. "The lands in all the colonies having "therefore been clearly ſhewn to be part of the dominions "of *Great-Britain*, and the poſſeſſors of them to hold them "under authorities and titles derived from the *Britiſh* ſtate, "Mr. *Locke* would require no other proof of the right of the "legiſlative power of *Great-Britain* to the obedience of the "poſſeſſors of thoſe lands; for ſpeaking of the manner by "which a man tacitly makes himſelf a ſubject of any country "or government, he ſays,"

"It is commonly ſuppoſed, that a father could oblige "his poſterity to that government of which he himſelf was "a ſubject, and that his compact held them; whereas it "being only a neceſſary condition annexed to the land, and "the inheritance of an eſtate, which is under that govern-

"ment

THE laws of *England* with reſpect to prerogative, and in other inſtances, have accommodated themſelves

" ment, reaches only thoſe who will take it on that con-
" dition, and ſo is no natural tie or engagement, but a
" voluntary ſubmiſſion; for every man's children being by
" nature as free as himſelf, or any of his anceſtors ever
" were, may, whilſt they are in that freedom, chooſe what
" ſociety they will join themſelves to, what common-
" wealth they will put themſelves under; but if they will
" enjoy the inheritance of their anceſtors, they muſt take it
" on the ſame terms their anceſtors had it, and ſubmit to
" all the conditions annexed to ſuch a poſſeſſion."
" Whoever (ſays he in another place) by inheritance, pur-
" chaſe, permiſſion, or otherways, enjoys any part of the
" lands *ſo* annexed to, and under the government of, that
" common-wealth, muſt take it with the condition it is un-
" der; that is, of ſubmitting to the government of the
" commonwealth under whoſe juriſdiction it is, as far,
" forth as any ſubject of it." page 31 The ingenuity of the gentleman is here again remarkable. Mr *Locke* in his 8th chapter on civil government " Of the beginning of political ſocieties," *immediatly* before the words abovementioned " Whoever by inheritance," &c. ſpeaks of a man who " *unites* his perſon which was before free to a ſociety for the *ſecuring* and *regulating* of property, and *ſubmits* to the community thoſe poſſeſſions which he has or ſhall acquire, that do not already belong to any other government." Theſe words the gentleman not thinking quite to his purpoſe *in this place*, ſeparates from the words of his quotation, and ſo gives Mr. *Locke*'s concluſion without his premiſſes. However three pages after, he is ſo candid, as to give the premiſſes without the concluſion. How, or why? to ſupport this moſt curious diſtinction,—that Mr. *Locke*, in that celebrated part of his argument where ſpeaking of " government taking the property of ſubjects," he ſays " WHAT PROPERTY HAVE I IN THAT, WHICH ANOTHER MAY BY RIGHT

themſelves, without alteration by ſtatutes to a change of circumſtances, the welfare of the people ſo

RIGHT TAKE FROM ME WHEN HE PLEASES," † "*means no more*" than that the ſupreme legiſlative power has no right to take the property of others without their conſent "for the PRIVATE USE OR PURPOSE of the legiſlative." So that according to this conſtruction, the conſtitution of a well eſtabliſhed government, or the freedom of a people, depends not on the great right which GOD has given them "of having a ſhare in the government of themſelves," whereby their property is ſecured, but merely, on the "*purpoſe*," to which the property taken from them without their conſent is *applied* by thoſe who thus take it. And yet this gentleman has ſeverely attacked the writer of the letters, for uſing the word "*purpoſe*" in a much *more confined* ſenſe, in ſaying, a "tax is an impoſition on the ſubject for the *ſole purpoſe* OF LEVYING MONEY."

Mr. *Locke*, in the preceding chapter, ſpeaking of monarchy ſays, "that abſolute power purifies not mens bloods. For if it be aſked what ſecurity or fence ariſes *in ſuch a ſtate*, againſt the violence and oppreſſion of the *abſolute ruler?* the very queſtion can ſcarce be borne. They are ready to tell you it deſerves death, only to aſk after ſafety. Betwixt ſubject and ſubject they will grant there muſt be meaſures, laws and judges for their mutual peace and ſecurity: But as for the *ruler, he ought to be abſolute, and is above all ſuch circumſtances*; becauſe he has power to do more hurt and wrong, 'tis right when he does it. To aſk how you can be guarded from harm or injury on that ſide, where the ſtrongeſt hand is to do it, is preſently the voice of *faction* and *rebellion*." But here our opponent may come in with another diſtinction. "Mr. *Locke* ſpeaks here of an *abſolute ruler*, not of *abſolute rulers*. *Lilly* proves that there is the ſingular number, and the plural number. A power that Mr. *Locke* would have held illegal in a *Piſiſtratus* or a *Stuart*, he would have held

† Pa. 33.

ſo requiring. A regard for that grand object perpetually

held legal in the *four hundred* of *Athens*, or the *parliament* of *Great Britain*." Let the diſtinction be allowed its due weight. Can it be believed that ſuch a friend to mankind, as Mr. *Locke* was, could ever think *abſolute dominion* * juſt or legal? Would not ſuch a ſentiment directly oppoſe thoſe principles, his benevolence induced him to take ſo much pains to vindicate and eſtabliſh? Would the ſound of the words—" dependance—" " ſubordination—" " within the realm—" " part of the dominions—" &c. have convinced him, that it was " the indiſpenſable duty of parliament to eaſe the gentry and people of *Great-Britain* by TAXING the coloniſts without their conſent?"—and that it was the indiſpenſable duty of the coloniſts *on conſtitutional principles* to ſubmit to ſuch taxation? The learned ſay that the too rigid attention of the mind to one idea ſometimes is the cauſe of madneſs. So rigid has been the attention of many heads in *Great-Britain* to the idea of *dependance*, that it ſeems to have occaſioned a kind of inſanity in them; and by ruminating, ſpeechifying, and enacting about it and about it, they have loſt all ideas of juſtice, humanity, law and conſtitution, and in ſhort of every quality that uſed to diſtinguiſh men from the reſt of this creation, and *Engliſhmen* from the reſt of mankind. But Mr. *Locke*'s underſtanding, even in the preſent whirl of the political world, would have preſerved him, juſt and tenacious of his principles. The caſe he puts, and on which the author of " the controverſy" argues, is that of *a ſubmiſſion to the terms of government in a common-wealth*. The queſtion between *Great-Britain* and the colonies, is, *what are the terms* of their connexion under all the circumſtances of it.

It is not recollected that Mr. *Locke* ever inſinuates, that the parliament of *Great-Britain* might bind the people of *Ireland*

* " *Abſolute dominion* HOWEVER PLACED, is ſo far from being one kind of *civil ſociety*, that it is as *inconſiſtent* with it, as *ſlavery* is with *property*." *Locke* on civil govrt. p. 174.

petually animates the conſtitution, and regulates all its movements---unleſs unnatural obſtructions interfere---

" *Spiritus intus alit, totamque infuſa perartus*
" *Mens agitat molem, & magno ſe corpore miſcet.*"

ANOTHER

Ireland by ſtatutes, " *in all caſes whatſoever.*" Yet there was in his time a famous diſpute concerning the authority of parliament over that kingdom. So far was he from favouring the claim of parliament, that it is hoped, it can clearly be proved, he favoured the other ſide of the queſtion.

His friend Mr. *Molineux*, in a letter dated *March* 15, 1697-8, tells him of his intentions to viſit him——when he could get looſe from buſineſs: " But this I cannot hope for till the parliament in *England* riſes. I ſhould be glad to know from you when that is expected, for indeed they bear very hard upon us in *Ireland*. How juſtly they can bind us, *without our conſent and repreſentatives*, I leave the author of the two treatiſes on government to conſider"—meaning Mr. *Locke*'s two treatiſes——one on government——the other on civil government; tho' they are publiſhed alſo as one treatiſe, the firſt book of which is under the firſt title, and the ſecond book under the ſecond title.

Mr. *Locke*, in his anſwer dated *April* 6, 1698, ſays, " amongſt other things I would be glad to talk with you about, before I die, is that which you ſuggeſt at the bottom of the firſt page of your letter. I am mightily concerned for the *place* meant in the queſtion you ſay you will aſk the author of the treatiſe you mention, *and wiſh extremely well to it*, and would be very glad to be informed by you *what would be beſt for it*, and debate with you the way to compoſe it: But this cannot be done by letters; the ſubject is of too great extent, the views too large and the particulars too

many

ANOTHER argument for the extravagant power of internal legiſlation over us remains. It has been urged with great warmth againſt us, that "*precedents*" ſhew this power is rightfully veſted in parliament.

SUBMISSION to unjuſt ſentences proves not a *right* to paſs them. Careleſsneſs or regard for the peace and welfare of the community, may cauſe the ſubmiſſion. Submiſſion may ſometimes be a leſs evil than oppoſition, and therefore a duty. In ſuch caſes, it is a ſubmiſſion to the *divine authority*, which forbids us to injure our country; not to the *aſſumed authority*, on which the unjuſt ſentences were founded. But *when* ſubmiſſion becomes inconſiſtent with and deſtructive of the *public good*, the ſame veneration for and duty to the *divine authority*, commands us to oppoſe. The all wiſe Creator of man impreſt certain laws on his nature. A deſire of happineſs, and of ſociety, are two of thoſe laws. They were not intended to deſtroy, but to ſupport each other Man has therefore a

many to be ſo managed. Come *therefore* yourſelf, *and come as well prepared as you can.* But if you talk with others on *that* point there, *mention not me to any body on that ſubject*; only let *you* and *I try what good we can do for thoſe whom we wiſh well to*; great things have ſometimes been brought about from ſmall *beginnings well laid together.*"

Mr. *Molineux* quickly after came over from *Ireland* to *England* to ſee Mr. *Locke.*

right to *promote* the *beſt* union of both, in order to enjoy both in the *higheſt* degree. Thus, while this right is properly exerciſed, deſires, that ſeem *ſelfiſh*, by a happy combination, produce the welfare of *others*. "This is removing ſubmiſſion from a foundation unable to ſupport it, and injuriousto the honor of GOD, and fixing it upon much firmer ground."*

No ſenſible or good man ever ſuſpected Mr. *Hooker* of being a *weak* or *factious* perſon, "yet he plainly enough teacheth, that a ſociety upon experience of univerſal evil, *have a right* to try by *another* form to anſwer more effectually the ends of government"—And Mr. *Hoadley* aſks—"Would the *ends of government* be deſtroyed ſhould the miſerable condition of the people of *France*, WHICH HATH PROCEEDED FROM THE KING'S BEING ABSOLUTE, awaken the thoughts of the wiſeſt heads amongſt them; and move them all to exert themſelves, ſo as that thoſe ends ſhould be better anſwered for the time to come?"

WHAT mind can reliſh the hardy propoſition, that becauſe precedents have been introduced by the inattention or timidity of *ſome*, and the cunning or violence of *others*, THEREFORE the latter have a *right* to make the former miſerable

* Hoadly's diſc. on government.

able—that is, that precedents that ought never to have been ſet, yet being ſet, repeal the eternal laws of natural juſtice, humanity and equity.*

THE argument from precedents begins unluckily for its advocates. The *firſt* produced againſt us by the gentleman before mentioned, was an act paſſed by the *Commonwealth* parliament

* ——————" I could never think
" A mortals law of power or ſtrength ſufficient
" To abrogate the unwritten law divine,
" Immutable, eternal, not like theſe
" Of *yeſterday*, but made e'er time began."
Sophocles's *Antig. Frank. Tranſl.*

It ſhould be conſidered, whether it ever was or ever can be the true intereſt of a kingdom or ſtate to violate the laws of natural juſtice, equity and humanity. Theſe laws may be called the laws of GOD. Can they be broken with impunity? The ſcriptures are full of leſſons on this ſubject, and hiſtory furniſhes inſtances ſufficient to alarm oppreſſors, if they would attend to them. All the glories of *Charles* the bold,—*Charles* the fifth,—*Philip* the ſecond,—*Charles* the twelfth,—*Lewis* the fourteenth,—and a numerous liſt of diſtinguiſhed princes, were overcaſt, when unrelenting cruelty came to preſide over their reſolutions. From *Athens* to *Genoa* the obſervation holds true. Let not the opinion be condemned as preſumptuous, before it be fully enquired into. It is worth an enquiry.

" Diſcite juſtitiam moniti & non temnere divos."

England has been proſperous in many civil wars, but they were in defence of liberty. She never engaged in one againſt liberty.—Would to Heaven, ſhe would ſet the world the much wanted example of lenity in government. Mankind might gain by it. The other mode has been ſufficiently tried, and proved to be impolitic and ruinous.

ment in 1650 to "puniſh" *Virginia* †, *Barbados*, *Antigua*, and *Bermudas*, FOR THEIR FIDELITY TO CHARLES THE SECOND. *So antient* is the *right* of parliament to "*puniſh*" Coloniſts *for doing their duty*. But the parliament had before overturned *church* and *throne*, ſo that there is an older "precedent" ſet againſt theſe.

THAT parliament ſat amidſt the ruins that ſurrounded it, fiercer than *Marius* among thoſe of *Carthage*. Brutal power became an irreſiſtible argument of boundleſs right. What the ſtyle of an *Ariſtotle* could not prove, the point of a *Cromwell*'s ſword ſufficiently demonſtrated. Innocence and Juſtice ſighed and ſubmitted—What more could they do? The Reſtoration took place, and a *legal* parliament would not doubt but it had as extenſive a right as an *illegal* one. The Revolution ſucceeded, and with it *methods* for blending together the powers of king and people in a manner before unknown. A new political alembic was fixed on the great principle of reſiſtance, and in it, ſevere experiments were to be made on every other principle of the conſtitution. How the *boldneſs of miniſters*

† This loyal, generous colony preſerved its principles with ſuch ſpirit, notwithſtanding the oppreſſion abovementioned, that in *January* 1659, they threw off all obedience to the parliament, replaced the kings governor, and proclaimed *Charles* the ſecond, ſeveral months before the reſtoration in *Europe*.

ſters & contempt of the people have increaſed ſince that period, not a man the leaſt acquainted with *Engliſh* hiſtory can be ignorant. The Colonies were in a ſtate of infancy—ſtill in a ſtate of childhood. Not a ſingle ſtatute concerning them is recollected to have been paſt before the Revolution, but ſuch as related to the regulation of trade. "Precedents" were afterwards made, that, when they grew up, the authority of a *maſter* might ſucceed that of a *parent*.

PRECEDENTS, it is apprehended, are no otherwiſe regarded in the *Engliſh* laws than as they eſtabliſh *certainty* FOR THE BENEFIT OF THE PEOPLE—according to the maxim—"miſerable is the ſervitude when the laws are *uncertain*." Precedents militating againſt the welfare or happineſs of a people, are inconſiſtent with the grand original principle on which they ought to be founded. Their ſuppoſed ſanction encreaſes in proportion to the repetitions of injuſtice. They muſt be void. In ſubjects of diſpute between man and man, precedents may be of uſe, though not founded on the beſt reaſon. They cauſe a certainty, and all may govern themſelves accordingly. If they take from an individual one day, they may give to him the next. But precedents to overthrow *principles*, to juſtify the *perpetual* oppreſſion of *all*, and to *impair the power of the conſtitution*, though a cloud of them appear,

pear, have no more force than the volumes of duſt that ſurround a triumphal car. They may obſcure it: They cannot ſtop it. What would the liberties of the people of *England* have been at this time, if precedents could have made laws inconſiſtent with the conſtitution? Precedents tending to make men unhappy, can with propriety of character be quoted only by thoſe beings, to whom the miſery of men is a delight.

"If the uſage had been immemorial and uniform, and ten thouſand inſtances could have been produced, it would not have been ſufficient; becauſe the practice muſt likewiſe be agreeable to the *principles of the law*, * in order to be good: whereas this is a practice inconſiſtent with, and in direct oppoſition to the *firſt and cleareſt principles of the law*" †—to thoſe *feelings of humanity*, out of which mankind will not *be reaſoned*, when power advances with gigantic ſtrides tnreatening diſſolution to a ſtate—to thoſe *inherent though latent powers of ſociety*, which no *climate*, ‖ no *time*, no *conſtitution*, no *contract*, can ever deſtroy or diminiſh." ‡

A

* This is a maxim of law, that—"a bad uſage ought to be aboliſhed."

† Letter on general warrants.—

‡ 1 Blackſtone p. 245.

‖ EQUAL DISTRIBUTION of JUSTICE, and FREE ENJOYMENT of PROPERTY, are the *great* objects of *ſociety*; and no *time*, *precedent*, *ſtatute*, or *inſtitution*, ſhould *deter*

A PARLIAMENTARY power of *internal legiſlation* over theſe colonies, appears therefore to us, equally contradictory to humanity and the conſtitution, and illegal.

As to the ſecond head, a power of regulating our trade, our opinion is, that it is legally veſted in parliament, not as a ſupreme legiſlature over theſe colonies, but as the ſupreme legiſlature and full *repreſentative* of the parent ſtate, and the only judge between her and her children in commercial intereſts, which the nature of the caſe, in the progreſs of their growth admitted. It has been urged, with great vehemence againſt us, and ſeems to be thought their *fort* by our adverſaries, " that a power of regulation is a power of legiſlation, and a power of legiſlation, if conſtitutional,

deter men from keeping *theſe* UPPERMOST in their thoughts." Mr. *Humes*'s hiſt. of *England*.

" The juriſdiction of the ſtar chamber, martial law, impriſonment by warrants from the privy council, and other practices of a like nature, though *eſtabliſhed for ſeveral centuries*; were ſcarce ever allowed by the *Engliſh* to be parts of their conſtitution: THE AFFECTION OF THE NATION FOR LIBERTY STILL PREVAILED OVER ALL PRECEDENT, AND OVER ALL POLITICAL REASONING: The exerciſe of theſe powers, after being long the ſource of ſecret murmurs among the people, was, in fulneſs of time, ſolemnly aboliſhed, as illegal, at leaſt as oppreſſive, by the whole legiſlative authority." id. To theſe inſtances may be added, the late practice of general warrants, that had the ſanction of precedents, even ſince the revolution.

conſtitutional, muſt be univerſal and ſupreme in the utmoſt ſenſe of the words. It is therefore concluded, that the coloniſts, by acknowledging the power of regulation, have acknowledged every other power." On this objection we obſerve, that according to a maxim of law, "it is deceitful and dangerous to deal in general propoſitions." The freedom and happineſs of ſtates depend not on § *artful arguments*, but on

§ Our chance of ſucceſs would be ſlight indeed, if it depended on ſubleties of reaſoning. Who can reſiſt the ſkilful and courageous attacks of thoſe *Britons*, who have not long ſince diſtinguiſhed themſelves in the polemical fields? Have they not *proved* to the ſatisfaction of thouſands, the non exiſtence of matter—the neceſſity of human actions—conſequently the innocence of them—the comfortable mortality of the ſoul—that virtue is a name—vice a jeſt—liberty a nonentity—chriſtianity an impoſture—and, with due deteſtation be it mentioned; that we have *no idea* of *power*, nor of any *Being* endowed with any power, MUCH LESS of *one* endowed with infinite power?"

With exploſions of learning and flaſhes of wit, theſe well trained troops would keep up a terrible fire of artillery and ſmall arms againſt us undiſciplined *Americans*. We muſt not meet them in the ſhock of battle. THAT WOULD BE MADNESS IN THE EXTREME. We muſt make the moſt of our *natural* advantages.——*There* we are *ſafe*; and all the forces that can be brought to the aſſault, will never be able to prevail againſt us. To drop the metaphor. "Inquiry ceaſes to be rational, and becomes both whimſical and pernicious, when it advances as far as ſome late authors have carried it, to coutrovert the firſt principles of knowledge, morality, religion, and conſequently the fundamental laws of the *Britiſh* government, and of all well regulated ſociety." Mr. *Beattie* on truth.

on *a few plain principles.* The plauſible appearance of the objection conſiſts in a confuſed comprehenſion of ſeveral points, entirely diſtinct in their nature, and leading to conſequences directly oppoſite to each other. There was a time, when *England* had no colonies. Trade was the object ſhe attended to, in encouraging them. A love of freedom was manifeſtly the chief motive of the adventurers. The connexion of colonies with their parent ſtate, may be called a new object of the *Engliſh* laws. That her right extinguiſhes all their rights,—rights eſſential to freedom, and which they would have enjoyed, by remaining in their parent ſtate, is offenſive to reaſon, humanity, and the conſtitution of that ſtate. Colonies could not have been planted on *theſe* terms. What *Engliſhman*, but an ideot, would have become a coloniſt on theſe conditions? to mention no more particulars, "That every ſhilling he gained, might rightfully be taken from him—trial by jury aboliſhed—the building houſes or making cloths with the materials found or raiſed in the colonies prohibited—and armed men ſet over him to govern him in every action?"

It has been aſſerted by ſome men diſtinguiſhed as hiſtorians, that the zeal of the reformers in religion engaging them to think liberally on that ſubject, led them to think with like freedom in civil affairs, whereby the government of *England* received its greateſt improvement. If the ſentiment is juſt, may it not be inferred, that contempt for religion, muſt neceſſarily introduce an indifference for all the juſt rules of government & the principles of the conſtitution?

HAD theſe provinces never been ſettled—had all the inhabitants of them now living, been born in *England*, and reſident there, they would now enjoy the rights of *Engliſhmen*, that is, they would be free *in that kingdom*. We claim *in the colonies* theſe and no other rights. *There* no other kingdom or ſtate interferes. But their trade, however important it may be, as the affairs of mankind are circumſtanced, turns on other principles. All the power of parliament cannot regulate *that* at their pleaſure. It muſt be regulated not by parliament alone, but by treaties and alliances *formed by the king* WITHOUT THE CONSENT OF THE NATION, with other ſtates and kingdoms. *The freedom of a people conſiſts in being governed by laws, in which no alteration can be made, without their conſent.* Yet the wholeſome force of theſe laws is *confined* to the limits of their own country. That is, a ſupreme legiſlature to a people, which acts *internally* over that people, and inevitably implies *perſonal* aſſent, *repreſentation*, or *ſlavery*. When an univerſal empire is eſtabliſhed, and not till then, can regulations of trade properly be called, acts of ſupreme legiſlature. It ſeems from many authorities, as if almoſt the whole power of regulating the trade of *England* was originally veſted in the crown. One reſtriction appears to have been, that no duty could be impoſed without the conſent of parliament. Trade

was little regarded by our warlike anceſtors. As commerce became of more importance, duties, and ſeverities were judged neceſſary additions to its firſt ſimple ſtate, parliament more and more interfered. The conſtitution was always free, but not always exactly in the ſame manner. " By the Feodal law, all *navigable* rivers and *havens* were computed among the Regalia, and were ſubject to the ſovereign of the ſtate. And in *England* it hath always been held, that the king is lord of the whole ſhore, and particularly is guardian of the ports and havens, which are the inlets and gates of the realm: and therefore, ſo early as the reign of king John, we find ſhips ſeized by the kings officers, for putting in at a place that was not a legal port. Theſe legal ports were undoubtedly at firſt aſſigned by the crown; ſince to each of them a court of portmote is incident, the juriſdiction of which muſt flow from the royal authority. The erection of beacons, lighthouſes, and ſea marks is alſo a branch of the royal prerogative. The king may injoin any man from going abroad, or command any man to return. The powers of eſtabliſhing public marts, regulating of weights and meaſures, and the giving authority to, or making current, money, *the medium of commerce*, belong to the crown. By making peace or war, leagues and treaties, the king may

open or ſtop trade as he pleaſes. The admiralty courts are grounded on the neceſſity of ſupporting a juriſdiction ſo extenſive, though oppoſite to the uſual doctrines of the common law. The laws of *Oleron* were made by *Richard* the firſt, and are ſtill uſed in thoſe courts." In the "Mare cauſum", are ſeveral regulations made by kings*. Time forbids a more exact enquiry into

* The power of regulating trade, was carried ſo far by the crown, as ſometimes to impoſe duties; and queen *Elizabeth* obtained ſeveral judgments in the exchequer on ſuch regulations. Lord chief juſtice *Coke* anſwers the argument founded on theſe—in 2 inſt. 62. 63. Princes aimed at too much power—— exceeded due bounds—— their imprudence produced "grievances"—— and the people who always ſuffer, when their rulers are weak or wicked, would no longer truſt ſuch *opportunities of oppreſſion* in their hand. The power of *impreſſing* ſeamen, ſhews the extenſive authority in *naval affairs* truſted to "the crown."

1 Blackſt. 419. Foſters rep. 154.

So extremely averſe were the *Engliſh* to *foreign affairs*, and to the exerciſe even of parliamentary authority concerning them, that though the nation was juſtly provoked againſt the *French* king for the injury done to *Edward* the 1ſt by withholding *Aquitaine* and his other inheritances in manner (as lord chief juſtice *Coke* obſerves in his 2d inſt. pa. 532.) and by ſome cruel actions of *Frenchmen* againſt *Engliſhmen,)* and had in full parliament granted him aids, ſubſidies, for the maintenance of his wars in foreign parts, yet in the CONFIRMATIONES CHARTARUM, Ed. 1ſt, therein taking notice. "that many men doubted, whether theſe grants *by parliament* might not turn *in ſervage of them* and their heirs, *as precedents*, expreſsly declares in thoſe ſtatutes, that ſuch grants ſhall not be drawn into cuſtom." The comment ſays—"it was holden that the ſubjects

into this point: but ſuch it is apprehended, will on enquiry be found to have been the power of the

jects *of the realm* ought not to contribute to the maintenance of the kings wars *out of the realm*—but this matter was never in quiet, until it was more particularly explained by divers acts of parliament." The comment then mentions ſeveral acts declaring that no *Engliſhman* ſhall be bound to contribute to the kings wars *out of England*, in *Scotland*, *Gaſcoigny*, *Ireland*, *Calais*,) though *theſe three laſt* were countries *dependant on England*,) and ſays, " theſe acts of parliament are but declarations of the antient law of *England*—But here may be obſerved, that when any antient law or cuſtom of parliament" (ſuch as before mentioned by making acts relating to foreign wars) " is broken, and the crown poſſeſſed of a precedent, how difficult a thing it is, TO RESTORE THE SUBJECT AGAIN TO HIS FORMER FREEDDOM AND SAFETY." 2 ins. 527—529.

The author of " the controverſy," who with a liberality of ſentiment becoming a pleader againſt freedom and the beſt intereſt of mankind, counts, " ſtatute books"—" miniſters"—" king's council"—pa. 77. 78.—" ſcraps of journals"——pa. 81. and ordinances of " the rump parliament"——pa. 87. among *his* " DEITIES" pa. 78; and grieves that we poor " *infidel*" coloniſts will not pay his idols the veneration his zeal judges due to them, has collected a good many fragments of proceedings in the houſe of commons from the year 1614 to 1628. The amount is this, that the miniſters of the crown inſiſted, that parliament could not make laws for *America*; that the the commons doubted; but at length in 1724, came to an opinion, that the king's patent for " a *monopoly* of fiſhing on the *coaſts of America* was a *grievance*,"——that a " *clauſe of* FORFEITURE" againſt thoſe who interfered in the fiſhery was void——and paſt a bill " for a *free* liberty of *fiſhing*" &c. It appears in the debates that the fiſhery was free *before the patent was granted*——Theſe extracts do not ſhew, what became

the crown, that our argument may gain, but cannot loſe. We will proceed on a conceſſion, that the power of regulating trade is veſted in parliament.

COMMERCE reſts on conceſſions and reſtrictions mutually ſtipulated between the different powers of the world; † and if theſe colonies were ſovereign ſtates, they would in all probability be reſtricted to their preſent portion *. The people

became of the bill in the houſe of lords. One Mr. *Brooke* ſaid in 1621——"We may make laws here for *Virginia*, for *if the king gives conſent* to this bill paſt here and by the lords, this will controul the patent."

It ſeems, as if the notion of the king's regulating power ſtill prevailed, but, that "a clauſe of *forfeiture*" in ſuch regulations was void." So much had the power of parliament grown ſince king *John*'s reign. Nor does it appear to have been unreaſonable, as commerce became of more conſequence. The inſtance here mentioned, related to a regulation of trade; and however the king might have accommodated the point, with the other branches of the legiſlature, the whole proceeding is immaterial. If it was a right actually enjoyed by *Engliſhmen* to fiſh on the coaſts of a plantation—and a grant by the crown of the fiſhery to the people of the plantation excluding the people of *England*, could not *diveſt them* of their right——or, "if by the king's giving his conſent to a bill paſſed by lords and commons,"——"the patent might be controuled"——it does not follow, that the king, lords and commons could diveſt the people of the plantations of all *their* rights.

† Caſe of the *Oſtend Eaſt India* company.

* "Another light, in which the laws of England conſider the king with regard to domeſtic concerns, is the arbiter of commerce. By commerce, I at preſent mean domeſtic

commerce

ple of *England* were *freemen*, before they were *merchants*. Whether *they* will continue *free*, they *themſelves* muſt determine. *How they ſhall trade*, muſt be determined by *Germans*, *French*, *Spaniards*, *Italians*, *Turks*, *Moors*, *&c.* The right of acquiring, property depends on the rights of *others:* the right of *acquired* property, ſolely on the owner. The poſſeſſor is no owner without it. " Almoſt every leaf and page of *all* the volumes of the Common Law prove this right of property†." Why ſhould this right be ſacred in *Great Britain*, " the chief corner ſtone" in the ſolid foundation of her conſtitution, and an empty name in her colonies? The lamb that preſumed to drink in the *ſame ſtream* with a ſtronger animal, *though lower down the current*, could

commerce only. It would lead me into too large a field, if I were to attempt to enter upon the nature of *foreign trade*, its privileges, regulations, and reſtrictions; and would be alſo quite beſide the purpoſe of theſe commentaries, which are confined to the laws of England. Whereas no *municipal laws can be ſufficient to order and determine the very extenſive and complicated affairs of traffic and merchandize; neither can they have a proper authority for this purpoſe.* For, as theſe are tranſactions carried on between ſubjects of independent ſtates, the municiple laws of one will not be regarded by the other. For which reaſon the affairs of commerce are regulated by a law of their own, called the law merchant or *lex mercateria*, which all nations agree in and take notice of. And in particular it is held to be part of the law of *England*, which decides the cauſes of merchants by the general rules which obtain in all commercial countries; and that often even in matters relating to domeſtic trade, as for inſtance with regard to the drawing, the acceptance, and the tranſfer of inland bills of exchange."

† Parlia. hiſt.

could not refute the charge of incommoding latter, by disturbing the water. Such power have reasons that appear despicable and detestable at first when they are properly enforced.

FROM *this very principle* arose *her power*; and can *that* power now be *justly* exerted, in *suppression* of *that* principle? It cannot. Therefore, a power * of regulating our trade, involves not in

* This distinction between a supreme legislature and a power of regulating trade, is not a new one. We find it clearly made, by the judges of *England*, at a period, when the modern profitable mode of blending together in parliament the authorities of the crown and people, had not extinguished all reverence for the principles of the constitution.

By the statute of the 2d of *Henry* 6th ch. 4th *Calais* was confirmed a staple place for the wool exported from *England*, *Wales* and *Ireland*. Some wool shipped from this last kingdom, was consigned to *Sluice*, in *Flanders*. The ship by stress of weather was forced into *Calais*, where the wool was seized as forfeited. The chief question in the exchequer chamber was, whether the statute bound *Ireland*. In Rich. 3, 12, the case is thus reported. "Et ibi quoad ad primam questionem dicebant, quod terra *Hiberniæ* inter se *habet parliamentum* & omnimodo curias prout in *Anglia*, & per idem parliamentum faciunt leges & mutant leges, & NON OBLIGANTUR PER STATUTA IN ANGLIA, QUIA NON HIC HABENT MILITES PARLIAMENTI; sed hoc intelligitur DE TERRIS *per* REBUS IN TERRIS TANTUM EFFICIEND; sed PERSONÆ EORUM SUNT SUBJECTI REGIS et tanquam subjecti ERUNT obligati ad aliquam rem EXTRA TERRAM ILLAM FACIENDAM contra statutum, sicut habitantes in *Callesia*, *Gascognia*, *Guien*, &c. dum fuere subjecti; & obedientes erunt SUB ADMIRALITATE ANGLIÆ DE RE FACTA SUPER ALTUM MARE; et *similiter* breve de errore de judiciis redditis in *Hibernia* in banco regis hic in *Anglia*."

Brooke lord chief justice of the common pleas, mentions the case almost in the same words, title parliament 98—but

90 says

in it the idea of ſupreme legiſlature over us. The firſt is a power of a preſerving "protecting"

 nature.

go ſays—"the chief juſtice was of opinion, that the ſtatutes of *England* ſhall bind *Ireland*, which was *in a manner* agreed by the other juſtices; and yet it was denied the former day: YET *note*, that *Ireland* is a realm of itſelf, and *has a parliament in itſelf*."

Here it may be obſerved, *firſt*, that the reaſon aſſigned by the judges, why the ſtatutes of *England* bind not the people of *Ireland*, though *ſpecially named*, contains a conſtitutional principle, the ſine qua of freedom. *Secondly*, that the people of *Ireland*, as ſubjects of the king, were "*under the admiralty of England as to things done on the high ſea*;" which is a ſtrong confirmation given by the judges of *England*, to the ſuppoſition before made, of the power of regulating trade being formerly veſted in the king. *Thirdly*, that the opinion of the chief juſtice, and of the other juſtices, ſuch as it was, "reddendo ſingula ſingulis, & ſecundum ſubjectam materiam," proves at moſt, only that *Ireland* was bound *by ſtatutes regulating their trade*, for ſuch was the 2 *Henry* 6th ch. 4th on which the caſe aroſe. *Fourthly*, that *Brooke* a man of great eminence and dignity in the law, appears by his note, to have been diſſatisfied with the judgment, tho only on a ſtatute of regulation, for *this* reaſon of ſuch weight with an *Engliſhman*,—"becauſe *Ireland* is a realm of itſelf and has a parliament within itſelf." *Fifthly*, that the authority of the crown, including the regulation of the trade of *Ireland*, and ſending writs of error there, were ſufficient reſtraints, to ſecure the obedience and ſubordination of that kingdom. This reaſon ſeems to have held its ground, till lord chief juſtice *Coke*'s time; and though a great reverence is entertained for his memory, yet it can never be acknowledged, that an "*obiter dictum*" of his, or of any other man, is a rule of law. In *Calvin*'s caſe, the chief juſtice reciting the foregoing caſe, ſays, "*Hibernia* habet parliamentum, & faciunt leges, & noſtra ſtatuta non legant eos, QUIA non mittunt milites ad parliamentum (which "adds he," is to be *underſtood*, unleſs they be *eſpecially named*) And does the "eſpecially naming them," give them a repreſentation, or remove the injuſtice of binding them without it? This obſervation in plain Engliſh would run thus. "Our ſtatutes

do

nature. The laſt, as applied to *America*, is ſuch a power as Mr. Juſtice *Blackſtone* deſcribes

do not bind the people of *Ireland*, when we *do not intend* to bind them, BECAUSE, they are not repreſented in our parliament: but our ſtatutes bind them, when we *intend* to bind them." What is this but ſaying—" that to ſpeak of their not being repreſented, is a mere jargon; and the ſole point is, whether it is our *will* to bind them"-- -or in other words —" that our ſtatutes do not bind them for a reaſon, as ſtrong as man can give, and ſo acknowleged by us to be, which yet, is no reaſon at all: for, where there is no occaſion for its operation, it applies not; and where there is occaſion, it is of no force" His Lordſhip had juſt before taken notice that " a writ of *error* did lye in the king's bench of *England* of an erroneous judgment in the king's bench of *Ireland*;" and perhaps that led him in the courſe of his argument to imagine, there might be a like pre eminence of the parliament of *England* over that of *Ireland*. That this was his reaſon ſeems certain, becauſe at a meeting of commiſſioners to conſider of a projected union between *England* and *Scotland*, at which the chief juſtice was preſent.—Moor 796, it is ſaid " that parliament has power over *Ireland*, AS IS PROVED by that a writ of error may be brought of a judgment in the king's bench of *Ireland*." In the 4th inſt. he alſo ſays the people of *Guernſey*, *Jerſey* and *Man* are not bound by the ſtatutes of *England*, unleſs they are ſpecially named. Yet whoever examines the ſtatutes relating to *Ireland*, *Guernſey*, *Jerſey* and *Man*, will have very little cauſe to believe, that it has been thought in *England*, that ſtatutes would generally bind the people of thoſe countries, notwithſtanding the ſubjection of *Ireland*, and the other iſlands. the many diſtreſſes of the former, and the weakneſs of the latter have afforded opportunities of extending ſuch a power over them. With reſpect to all theſe places ſcarce a ſtatute can be found of *any* period, but for the regulation of their trade. The ſame obſervation may be made as to *Gaſcoigny*, *Guienne* and *Calais*. Juſtice *Wylde* in 2 *vent.* 5, ſaid, " he had ſeen a charter whereby theſe places were recited to be united *to England by mutual pact*. And writs of error run thoſe." " *Wales* was a conquered country, and the people ſubmitted to *Edward* the firſt de *alto* et *baſſo*."

Whatever

ſcribes in theſe words, " whoſe enormous weight ſpreads horror and deſtruction on all inferior

 movements."

Whatever pretence the chief juſtice's opinion was founded on, it has been echoed and repeated in many law books ſince. Whether his lordſhip meant, that ſtatutes of *England* could *bind* the people of *Ireland*, in taking away trials by jury,---taxing them, and " *in all caſes whatſoever*," or only in preſerving their ſubordination, as by regulating their trade, which was the caſe referred to in his comment, does not appear. The parliament in declaring the dependence of *Ireland*, did not *venture* to claim a power of binding the people of that kingdom " in all caſes whatſoever." * With reſpect to all theſe declarations, however, as they are made to refer to us, we may anſwer as the lion did to the man in the fable.

Much the ſame arbitrary conſtruction has been made on the queſtion; whether a man could be tried in *England* on a charge of committing treaſon in *Ireland*. In queen *Elizabeth*'s reign, " *Gerrade*, chancellor of *Ireland* moved that queſtion to the counſe of the queen, and it was held by *Wray*, *Dier*, and *Gerrarde*, attorney general, he could not, becauſe he was a ſubject of *Ireland* and not of *England*, and if tried in *England*, he could not be tried by his peers." *Dier*, 360. Afterwards, to gratify the queen's reſentment againſt ſome rebels, they were tried in *England*; and thus paſſion and complaiſance made very good law againſt reaſon and juſtice.

Having mentioned *Calvin*'s caſe, it may not be improper to obſerve, that if the author of " the controverſy" had taken the trouble of reading it, he might have found his perplexities removed on the queſtion that has given him ſo much anxiety, and brought ſuch a load of reproaches on the colonies. He is provoked at our inſolence for pretending to be any thing more than *aliens* in *England*, while we deny the power of parliament to bind us " in all caſes whatever." In that caſe, the gentleman would have diſcovered, that the judges of *England* held, that a man born in *Scotland*, *under the allegiance of James* the firſt, after his acceſſion to the throne

* Nor, to this day does parliament tax them, &c. And therefore the inference is juſt, that neither they nor the chief juſtice meant ſuch a power.

movements." The firſt is a power ſubject to a conſtitutional check. *Great Britain* cannot injure us by taking away our commerce without hurting herſelf *immediately*. The laſt is a power without check or limit. She might ruin us by it. The injury thereby to herſelf might be *remote* as to be deſpiſed by her.

THE power of regulation was the only band that could have held us together; formed on one of theſe "original contracts,"—which only can be a foundation of juſt authority. Without ſuch a band, our general commerce with *foreign nations*, might have been injurious and deſtructive to her. Reaſon and duty reject ſuch a licence. This our duty reſembles that of children to a parent. The parent has a power over them: but they

throne of *England*, was entitled to all the rights of a ſubject born in *England*; though the objection, that ſtatutes of *England* could not bind *Scotland*, or a man reſiding there, who held lands in *England*, was mentioned in the courſe of the argument. That great difficulty being got over, if the gentleman, will go a ſtep farther, and perceive ſome little diſtinction between colonies proceeding out of the loins of *England*, and the "*conquered*" countries of *Ireland* and *Wales*, —the countries of *Gaſcoigny Guienne*, and *Calais*, "*united by mutual pact to* England" and the iſlands of *Guernſey*, &c. "*lying within the four ſeas, whoſe ſovereigns annexed them to* England:" and will only allow the colonies a *little more* regard than is *profeſt* in law books for *thoſe countries*, and *about as much* as has been *actually obſerved* towards them by parliament, he will have no further occaſion to ſay ſevere things of thoſe, who are willing to eſteem him; and then, if he can perſuade his worthy countrymen to adopt his ſentiments, their anger will no longer give pain to thoſe who almoſt adore them.

they have rights, what the parent cannot take away. Heaven grant that our mother country may regard us as her children, that if by the diſpenſation of Providence, the time ſhall come, when her power increaſes the memory of former kindneſſes, may ſupply its decays, and her colonies like dutiful children, may ſerve and guard their aged parent, for ever revering the arms that held them in their infancy, and the breaſts that ſupported their lives, while they were little ones.

It ſeems, as if the power of regulation might not inaptly be compared to the prerogative of making peace, war, treaties, or alliances, whereby "*the whole* * *nation are bound*, AGAINST THEIR CONSENT:" and yet the prerogative by no means implies a *ſupreme legiſlature*. The language held in "the Commentaries" on this point is very remarkable. "With regard to FOREIGN CONCERNS the king is the *delegate* or *repreſentative* of the people; and in him, as in a *center*, all the *rays* of his people are united ‖; and the SOVEREIGN POWER *quoad hoc* is veſted in his perſon §." Will any *Engliſhman* ſay theſe expreſſions are deſcriptive of the king's authority, WITHIN THE REALM. "Is the SOVEREIGN POWER *within that* veſted in his perſon?" He is ſtiled "*ſovereign*" indeed; "his realm is declared by many acts of parliament an *Empire* and his crown *Imperial*." But do theſe ſplendid appellations, the higheſt known in *Europe* ſignify, that "*ſovereign* POWER is veſted in his perſon *within the realm*?" We have a full anſwer in the

* 1 Blackſt. 252, 257. ‖ Fol. 252. § Fol. 257.

the Commentaries. " The *meaning* of the legiſlature, when it uſes theſe terms of *empire* and *imperial*, and *applies* them to the realm and crown of *England*, is *only* to aſſert, that our king is equally *ſovereign* and *independent* within theſe his dominions; and *owes no kind of ſubjection* to any potentate upon earth." Thus WE maintain, that with regard to FOREIGN AFFAIRS, the parent original ſtate, " is the *delegate* or *repreſentative*," of the entire dominions, " the *ſovereign power* QUOAD HOC is veſted " in her. Her acts under this power " irrevocably bind the whole nation." But yet this power by no means implies *a ſupreme legiſlatnre*.

THE exerciſe of this power *by ſtatutes* was abſolutely neceſſary; becauſe it was, and could only be lodged, as the laws of the parent ſtate ſtand in the ſupreme legiſlature of that ſtate, conſiſting of king, lords, and commons; and *ſtatutes* are the modes by which this united ſentiments and reſolutionsare expreſt. It is univerſally acknowledged in *Great-Britain*, that it in fers no power of *taxation* in king and lords, that their *limited* authority is uſed in cloathing, *gifts and grants of the commons* with the *forms of law* —nor does it infer *ſupreme legiſlature* over us, that the *limited* authority of king, lords, and commons is uſed in cloathing *regulations of trade* with the *form of law*. The commons joining in the law, is not material. The difference is only in the mode of aſſent. Theirs is *expreſs*, ours is *implied*, as the aſſent of the " whole nation," is, in the preceeding inſtances.

THIS

THIS power of regulation appears to us to have been pure in its principle, ſimple in its operation, and ſalutary in its effects. But for ſome time paſt we have obſerved, with pain, that it hath been turned to other purpoſes, than it was originally deſigned for, and retaining its title, hath become an engine of intolerable oppreſſions and grievous taxations. The argument of an eminent judge, ſtates the point in a ſimilar caſe ſtrongly for us, in theſe words.—"Though it be granted, that the king hath the *cuſtody* of the *havens* and *ports* of this iſland, being the very *gates* of this kingdom, and is *truſted* with the *keys* of theſe *gates*; yet the *inference* and *argument* thereupon made, I utterly deny. For in it there is *mutatio hypotheſis*, and a *tranſition* from a thing of *one* nature to *another*; as the *premiſes* are of a *power only fiduciary*, and in *point of truſt and government*, and the *concluſion* infers a *right of intereſt and gain*. Admit the king has *cuſtodiam portuum*, yet he hath but the *cuſtody*, which is a *truſt* and not *dominium utile*. He hath power to *open* and *ſhut*, UPON CONSIDERATION OF PUBLIC GOOD TO THE PEOPLE AND STATE, but not to make *gain* and *benefit* by it: the *one* is PROTECTION, the *other* is EXPILATION." By common law the king may reſtrain a ſubject from going abroad, or enjoin him by his chancellor from proceeding at law: But to *conclude*, that he may *therefore take money*, not to reſtrain or not to enjoin, IS TO SELL GOVERNMENT, TRUST, AND COMMON JUSTICE *.

* Rights of the people, as to impoſitions.

THE END.

ERRATA.

For "the equal ſum" in note of pa. 21.—read—"the ſame ſum."
For "raiſing money" in ſame note r.—"raiſing and expending money."
Dele in ſame note theſe words—"The ſame reaſoning holds as to the application of money."
Dele in pa. 39 theſe words—"no *Engliſh* lawyer, as we remember, has pointed out preciſely"——— and r. "the conſtitution has not *expreſsly* drawn."
Dele in ſame pa. theſe words—"General term have been uſed.
Dele in note of pa. 47—this word—"becauſe."
In note of pa. 51—after 7 Geo. 3 ch. 41.—r. 7 Geo. 3 ch. 46.
In note of pa. 61. after the word "Government"—r. "conſiſts"
In note of pa. 84 for "pa. 121"—r.—p. 120.

APPENDIX.

Addition to Note ‖ in pa. 51.

THE ſtatutes ſince the 8th year of this reign, relating to the colonies, follow one another much in the ſame quick manner as before: but they could not be collected. Many of the ſtatutes here mentioned, particularly thoſe relating to the admiralty courts and the commiſſioners of the cuſtoms are connected with a multitude of other ſtatutes, by being connected with which, the artifices will appear, that gradually departing from the laws of *England*, have at length inveſted theſe courts and commiſſioners with ſuch new, unreaſonable, unconſtitutional and dangerous powers.

Additional Note to pa. 80.

THE whole country of the ſeven *United Provinces* is not as large as one half of *Penſylvania;* and when they began their conteſt with *Philip* the ſecond for their liberty, contained about as many inhabitants as are now in the province of *Maſſachuſetts-Bay*. *Philip's* empire then comprehended in *Europe*, all *Spain* and *Portugal*, the two *Sicilies*, and ſuch provinces of the *Low Countries* as adhered to him,—many iſlands of importance in the *Mediterranean*—the *Milaneſe* and many other very valuable territories in *Italy* and elſewhere.—In *Africa* and *Aſia*, all the dominions belonging to *Spain* and *Portugal*—in *America* the immenſe countries ſubject to thoſe two kingdoms, with all their treaſures and yet unexhauſted mines, and the *Spaniſh Weſt-Indies*. His armies were numerous and veteran, excellently officered, and commanded by the moſt renowned generals. So great was their force, that during the wars in the *Low Countries*, his commander in chief the prince of *Parma*, marched twice into *France*, and obliged that great general and glorious king *Henry* the fourth, to raiſe at one time the ſiege of *Paris* and at another, that of *Roan*. So conſiderable was the naval power of *Philip*, that in the midſt of the ſame wars, he fitted out his dreadful *armada* to invade *England*. Yet ſeven little provinces, or *counties*, as we ſhould call them, inſpired by one generous reſolution—"to die free, rather than to live ſlaves," not only baffled, but brought down into the duſt, that enormous power, that had contended for univerſal empire, and for half a century, was the terror of the world. Such an amazing change indeed took place, that thoſe provinces afterwards actually PROTECTED *Spain* againſt the power of *France*.